



MAYOR AND COUNCIL AGENDA

NO. 12

DEPT.: Community Planning and Development Services /
Contact: Cas Chasten, Planner III

DATE: October 25, 2004

ACTION: Public hearing to consider the applicant's request to allow development of the property located at 196 East Montgomery Avenue for residential and retail land uses in lieu of the office and retail land uses approved under Preliminary Development Plan PDP1994-0001E.

Applicant: Rockville Renaissance West, LLC

ACTION STATUS:

FOR THE MEETING OF: 11/1/04

INTRODUCED

PUB. HEARING

INSTRUCTIONS

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER

SECTION

☐ CONSENT AGENDA

RECOMMENDATION: Hold public hearing and leave record open until November 15, 2004.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

This proposal represents a change in the land use approved for the property identified as Block 3/Parcel 2-J, initially approved under Preliminary Development Plan PDP1994-0001, Rockville City Inc., approved by the Planning Commission on April 27, 1994.

BACKGROUND: In accordance with Section 25-682(b) of the City of Rockville Zoning Ordinance, a joint work session was held on September 20, 2004, between the Mayor & Council and Planning Commission to discuss the referenced preliminary development plan. The applicant seeks approval to develop the property at 196 East Montgomery Avenue for residential and retail land use in lieu of the office and retail land uses initially approved under PDP1994-0001.

Under PDP1994-0001, the subject property, which is formally identified as Block 3/Parcel 2-J, is currently approved for the development of 362,875 square feet of office space and 36,750 square feet of retail space. In the applicant's initial submission of PDP1994-0001E, the development plan called for the construction of a high rise residential development containing 292 condominium units, seven townhouse/loft type units, 17,340 square feet of retail space, and structured parking facilities. After receiving feedback from the Mayor & Council and Planning Commission at the joint work session held on September 20, 2004, and the Commission's October 13, 2004 meeting, the applicant amended the proposal as follows: a) construct 285 residential living units in lieu of 299; b) eliminate the proposed seven townhouse/loft units on the ground floor level of the building fronting

Renaissance Street; c) construct 20,000 square feet of retail space as opposed to 17,340 square feet; and d) reduce and modify the height of the buildings that would front Renaissance Street and East Montgomery Avenue (See attached Staff Report).

The Planning Commission reviewed the application on October 27, 2004. Their comments will be provided to the Mayor & Council at the public hearing. Based on the revisions the applicant has made to the initial development proposal, the applicant requests the Mayor and Council approve PDP1994-0001E as now submitted.

PREPARED BY:

Castor D. Chasten
Castor D. Chasten, Planner III

APPROVE:

Robert J. Spaulding
Robert J. Spaulding, AICP Chief of Planning

Arthur D. Chambers
Arthur D. Chambers, AICP Director, CPDS

Catherine Tuck-Parrish
Catherine Tuck-Parrish, Acting City Manager

10-25-4
Date

10/25/04
Date

11/26/04
Date

LIST OF ATTACHMENTS:

1. Staff Report

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

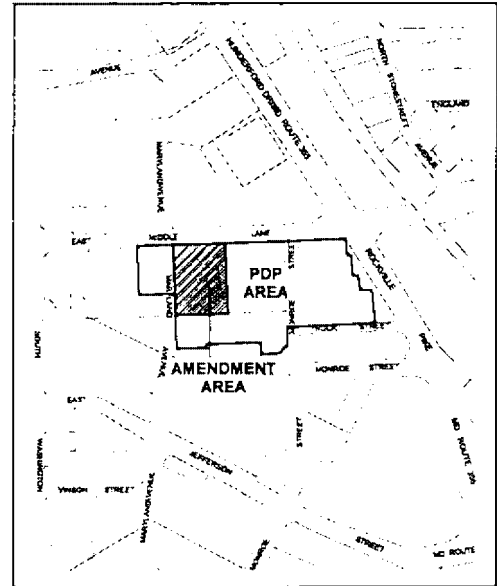
October 21, 2004

SUBJECT:

PDP1994-0001E, 196 East Montgomery Avenue
Rockville, Maryland 20850

Applicant: Rockville Renaissance West LLC
c/o Akridge Development Co.
601 13th Street, Northwest
Washington, D.C. 20005

Property
Owner: Rockville Renaissance West
c/o Blackacre Capital Partnership
299 Park Avenue, 23rd Floor
New York, New York, 10171



Planning Commission Meeting: October 27, 2004
Mayor & Council Meeting: November 1, 2004

INTRODUCTION

In accordance with Section 25-682(b) of the Zoning Ordinance, a joint work session was held between Planning Commission and Mayor & Council on September 20th 2004, where the applicant and staff presented an overview of the referenced development proposal. The applicant seeks approval to develop the referenced property with a high-rise residential condominium development containing 285 units, with approximately 20,000 square feet of retail floor space located on the ground level of the development. The subject property (herein referenced as Parcel 2J/Block 3) is currently approved for development for office and ancillary retail land use (ref. PDP1994-0001).

Following staff and the applicant's presentation, Planning Commission members along with the Mayor and Council voiced a number of concerns with the development proposal, which included but was not limited to the following: a) proposed height and mass of the buildings, b) living units likely unaffordable for young families with children, c) displacement and loss of parking facilities during site construction, d) impact of development (if any) on County schools, d) lack of open/green space, e) amount of proposed retail floor space seems inadequate, based on the site's location (within the Town Center), etc.

In response to the issues raised by the Planning Commission and Mayor and Council, the applicant presented several building redesign alternatives of the proposed residential and retail

development, at its October 13th 2004 meeting. The purpose of the meeting was to obtain additional guidance from the Planning Commission with regard to the ultimate design of the development, prior to formal consideration by both the Commission and Mayor and Council. Design elements of the initial development proposal are provided along with the amended proposal, in order to illustrate how the applicant has attempted to address a number of the physical design issues that have been raised by the Mayor and Council and Planning Commission in its brief review of the proposal.

The application has been filed by Rockville Renaissance West LLC, through Akridge Development Company as an amendment to the approved Preliminary Development Plan (PDP) for Rockville Center. The property referenced herein as Block 3/Parcel 2-J, is bounded by East Montgomery Avenue, Maryland Avenue, East Middle Lane, and proposed Renaissance Street. The amendment is limited to this block. The result of this amendment will be a modification of the mix of approved land uses, total amount of development, and the required number of parking spaces for the entire approved PDP. The applicant has a development option for Block 2/Parcel 2-K (the block east of Renaissance Street), which is owned by Tower 2 Associates, but is not proposing changes on that block at this time.

PREVIOUS RELATED ACTION:

Preliminary Development Plan PDP1994-0001, Rockville Center Inc. - a proposal to redevelop the former Rockville Mall site; developing up to 1,274,625 square feet of office space, 148,997 square feet of retail space, and 117 residential units. Approved by the Planning Commission on April 27, 1994.

Preliminary Development Plan Amendment PDP1994-0001A, Rockville Center Inc. – relocation of approved uses and densities in Rockville Center, including 1,261,411 square feet of office space, 94,035 square feet of retail space, 43,804 square feet of restaurant space, 67,370 square feet of theater space, and a minimum of 117 dwelling units. Approved by the Planning Commission on June 19, 1996.

Use Permit USE96-0565, Rockville Center Inc. - a proposal to construct 105,477 square feet of restaurant and movie theater building space along with site surface parking facilities, in the TCM-2 (Town Center Mixed) Zone. Approved by the Planning Commission on July 5, 1996.

Preliminary Development Plan Amendment PDP1994-0001B, Rockville Center Inc. – modification of the approved “required traffic impact mitigation measures and transportation demand program elements” in conjunction with Use Permit USE98-0583 for the first office building. Approved by the Planning Commission on July 22, 1998.

Preliminary Development Plan Amendment PDP1994-0001C and Use Permit Amendment USA1996-0565A, Pavilion Partners, Inc. – a change in use from restaurant to office and health and

fitness establishment on the second floor of the Rockville Center Retail Pavilion. The proposed change required an amendment of the approved “preliminary development plan” to redistribute the office and restaurant uses within the development. Approved by the Planning Commission August 2, 2000.

Preliminary Development Plan Amendment PDP1994-0001D, Pavilion Partners, Inc. – a change in use of 13,500 square feet of health and fitness establishment space, to office use, located on the second floor of the Rockville Center Retail Pavilion. Proposal also included, construction of a 1,200 square foot breezeway to connect the office spaces at either end of the second level. Approved by the Planning Commission on September 4, 2002.

REQUEST:

The application as submitted, is an amendment to previously approved Preliminary Development Plan for the Rockville Center Project (PDP94-0001), as amended. The subject amendment, is a proposal to redevelop Parcel 2-J or Block 3, as referenced in the originally approved PDP94-0001, from its previously approved land use of “office and retail” to a mixed use development of primarily residential, with street level commercial, residential amenity facilities, and structured parking facilities. The subject request is submitted in accordance with requirements of Section 25-682 of the City’s Zoning Ordinance.

STAFF RECOMMENDATION:

Approval is recommended subject to the following conditions:

1. The Community Planning Division requires the applicant provide the following information and/or action be taken:
 - a. Amend the illustrative building elevation drawings and floor plan to reflect the amended site plan submitted to staff on October 18th 2004.
 - b. Amend the overall site plan of the total Preliminary Development Plan (PDP) project area to illustrate the proposed site development and the development approved and/or constructed on other parcels/blocks that make up the PDP area.
 - c. Provide for approval with subsequent use permit/s, an interim parking management plan that identifies the total number, and location of where parking will be provided, due to the displacement of the existing parking lot now located on the subject site.
 - d. Comply with requirements of the City’s construction codes, fire code, life safety code, state accessibility code, and federal requirements of the American with Disabilities Act (ADA).

2. The Department of Public Works (DPW) requires the following information be provided and/or action be taken:

- a. Provide cross sections for all sidewalks that will be located along all site street frontages.
- b. Denote on subsequent use permit plans how the east parking lot (Parcel 2-K) will be accessed during construction of the subject site and after development is completed.
- c. Provide ten foot wide Public Utility Easements on East Middle Lane and Maryland Avenue.
- d. Renaissance Street must be designed to accommodate through vehicular traffic to City standards, as approved by DPW, in the event East Montgomery Avenue is closed for special events. Mountable curbs or removable bollards could be used to restrict and control vehicle movements between the proposed garage access point and bulb turnaround at East Middle and Renaissance Street. The detailed designed to be approved on subsequent use permit.
- e. Applicant and/or its assigns will agree to enter into the Town Center Maintenance District, if it is expanded to this block.
- f. Contribute \$135,000 towards transportation improvements in the Town Center Planning Area prior to the issuance of building permits
- g. Contribute \$94,249 toward pedestrian and bike improvements being constructed at the intersection of Md. Route 28/Great Falls Road prior to issuance of building permits.
- h. Contribute \$80,000 towards traffic calming in the surrounding neighborhoods prior to the issuance of building permits
- i. Provide for a minimum of eight feet of clear pedestrian zone and seven feet of tree/amenity zone along all site frontages. Trees are not required on E. Montgomery Avenue and Renaissance Street due to underground structures.
- j. Provide stormwater management (SWM) for the planned site development. SWM must be provided in accordance with City code and Maryland SWM regulations established in the year 2000. The applicant must provide a SWM concept plan as per submission requirements established by DPW. The concept plan shall also include a summary of SWM for the subject site.
- k. Provide a construction-staging plan to be approved by DPW, with each use permit, to ensure the availability of adequate parking and safe pedestrian access, throughout all stages

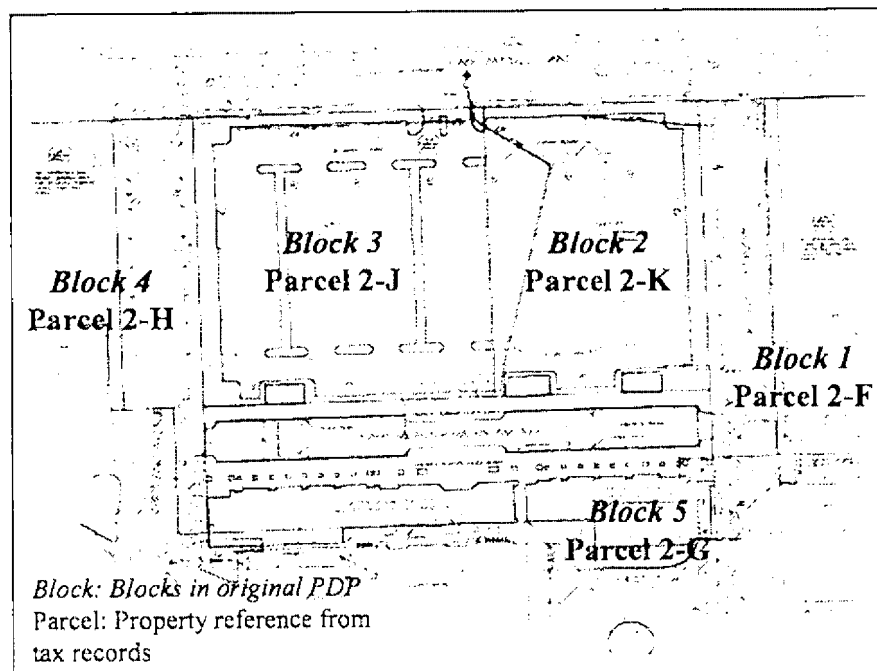
of construction.

3. The Department of Recreation and Parks require the applicant to:

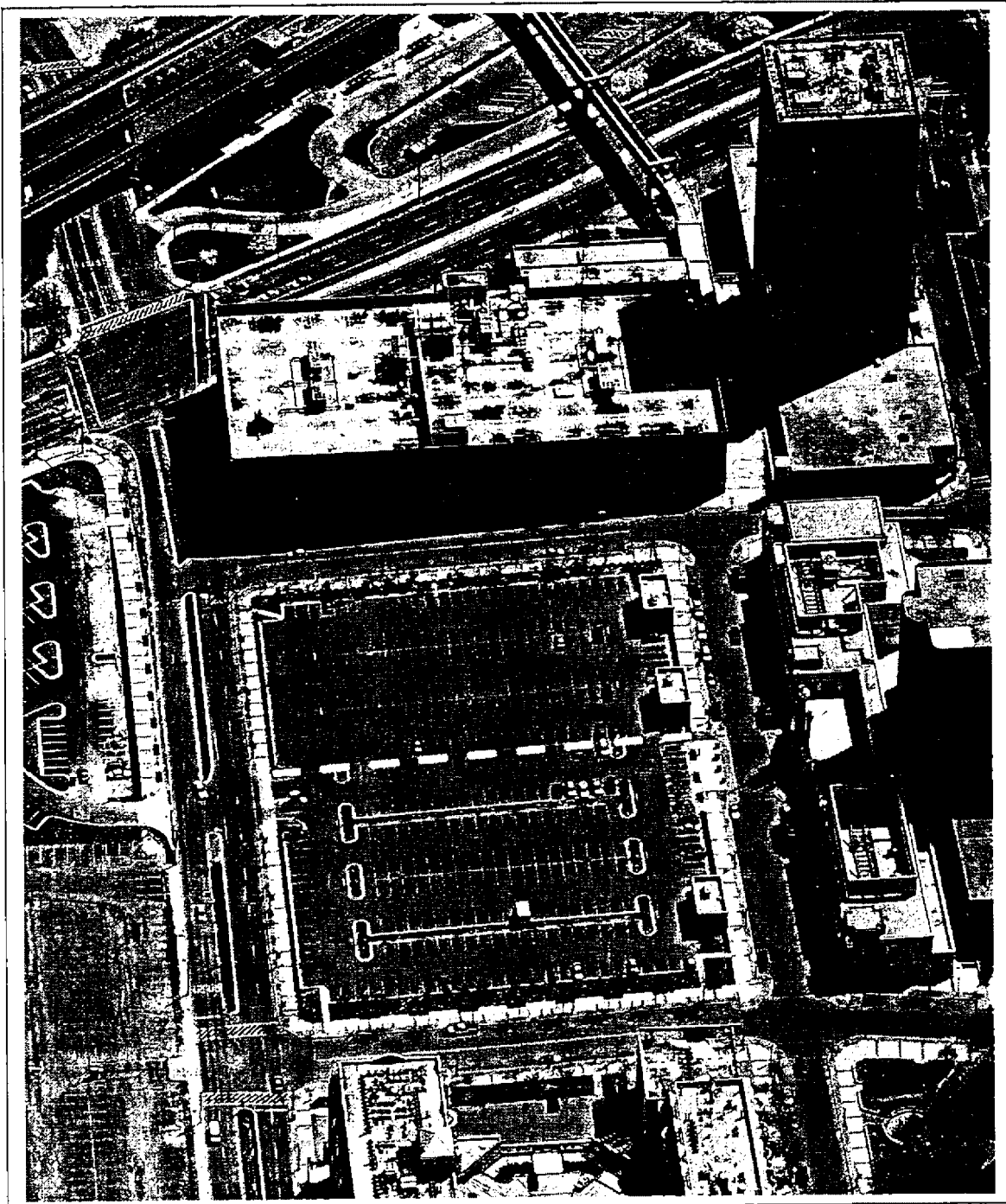
- a. Comply with Art in Private Development requirements, which will be determined by the total number of residential living units (excluding MPDUs) and amount of retail floor space constructed under the proposed site development.

Property/Site Description

The subject property is rectangular in shape, approximately 78,933 square feet (1.8 acres) in size, and currently improved as a surface parking lot containing approximately 203 vehicular parking spaces. The property is bounded to the north by East Middle Lane and currently developing Town Square project, to the east by office uses located on Monroe Street, to the south by the Regal Theater and accompanying commercial land uses along East Montgomery Avenue, and to the west by office, institutional, and residential land uses located along Maryland Avenue. The subject site (Parcel 2-J) also includes the Renaissance Street public use surface easement, which separates the site from Parcel 2-K, which is also an improved surface parking facility. The easement area totals 17,740 square feet and is expected to serve in part as pedestrian space and as a vehicular ingress/egress to the proposed site development.



Existing Site Layout



Aerial Overview of Site (Parcel 2-J)

COMPARISON OF PRELIMINARY DEVELOPMENT PLAN TO USE PERMIT

Development utilizing the optional method of development in the Town Center Mixed Use – 2 (TMC-2) zone is approved in a two-step process. The first step is the preliminary development (PDP) plan and the second step is a use permit. The PDP establishes overall development program at a concept-plan level. As with the recent PDP approvals for the Town Square and KSI projects the applicant has submitted an illustrative plan that shows the architectural approach planned by the applicant. The illustrative plan is for informational purposes and does not get approved as part of a PDP. The use permit approves the detailed site plan and appearance of buildings. A comparison of the submission requirements for PDPs and Use Permits is contained in Attachment "F."

The Mayor and Council adopted Text Amendment TXT2004-00212 on August 2, 2004. This text amendment modified the approval procedures for all optional method of development applications in the City, including the preliminary development plan (PDP) process in the Town Center. The new process requires a joint work session with the Mayor and Council and Planning Commission before or soon after the filing of an application, a recommendation from the Planning Commission and action by the Mayor and Council. This application was filed prior to that requirement. Thus, a work session with the Planning Commission and Mayor and Council was held on September 20th 2004, to allow joint comment on the project prior to a formal recommendation by the Planning Commission and action by the Mayor and Council.

PRELIMINARY DEVELOPMENT PLAN REQUIRED FINDINGS

In accordance with Section 25-683(b) of the City of Rockville Zoning Ordinance, the Mayor & Council may authorize optional method of development only if it determines that the proposed development is in substantial accordance with the Plan and with the intent and purpose of the Ordinance, and is compatible with adjacent existing and permitted uses and developments. In making such determination, the Mayor & Council shall consider:

- (1) Provision made for traffic impact mitigation, open space, pedestrian circulation, and environmental amenities;
- (2) The particular dimensions, grade and orientation of the site, and the location and height of existing and proposed development in the Town Center Planning Area;
- (3) The finding and requirements necessary for the approval of a preliminary plan under Article XV of the Ordinance.

Also, in accordance with Article XV (Section 25-727(e) of the Ordinance, a preliminary plan shall be approved if the Planning Commission finds that the proposed subdivision will not:

- (1) Constitute a violation of any provision of the Ordinance or other applicable law;
- (2) Violate or adversely affect the Plan;
- (3) Overburden existing public services, including but not limited to water, sanitary sewer, public roads, storm drainage and other public improvements;
- (4) Affect adversely the health or safety of persons residing or working in the subdivision or neighborhood;
- (5) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- (6) Be unsuitable for the type of development, the use contemplated, and available public utilities and services; or
- (7) Unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil.

The proposed application complies with these findings. In general the amendment reduces potential adverse impacts of the approved preliminary development plan and more effectively achieves the goals of the 2001 Town Center Master Plan.

THE TRANSITION & DEVELOPMENT AGREEMENT – RELEVANT PROVISIONS

This property is subject to the provisions of the Transition and Development Agreement (TDA) entered into by the Mayor and Council and Rockville Center, Inc. (RCI), a predecessor in title to Rockville Renaissance West, LLC. The TDA was executed July 13, 1993, amended February 14, 1997, and amended once again August 26, 1999. Having received a Certificate of Completion June 20, 2001, the TDA remains in effect until June 21, 2021. The approval of the TDA and its accompanying PDP provided for the development of a five (5) block site. The agreement requires that RCI, and its successors; perform certain actions as part of the approval of a new mixed-use development plan conceptually containing 1,234,000 s.f. of office space, 192,000 s.f. of retail space, of retail, 120,000 s.f. of residential, and 2,160 parking space uses (TDA, Exhibit 9 Development Plan). Among the notable requirements were:

1. Demolition of the Rockville Mall.
2. Traffic Improvements, as part of a Transportation Demand Management (TDM) program, required of RCI in the routine review process for Use Permit approval.
3. Gathering Spaces including Courthouse Square Park, East Montgomery Avenue between Maryland Avenue and Monroe Street extended, and Metro Plaza Promenade access improvement to the pedestrian crosswalk over Hungerford Drive.

4. Monroe Street pedestrian elevator and stair improvements to Metro Plaza Promenade.
5. Parking expansion utilizing Middle Lane Lot in front of Retail Pavilion and
6. The extensions of East Montgomery Ave. (above), Monroe St., Center St. (Renaissance St.), and Maryland Ave.

In addition, the TDA contains a number of provisions that are worth noting regarding this proposed amendment. These include:

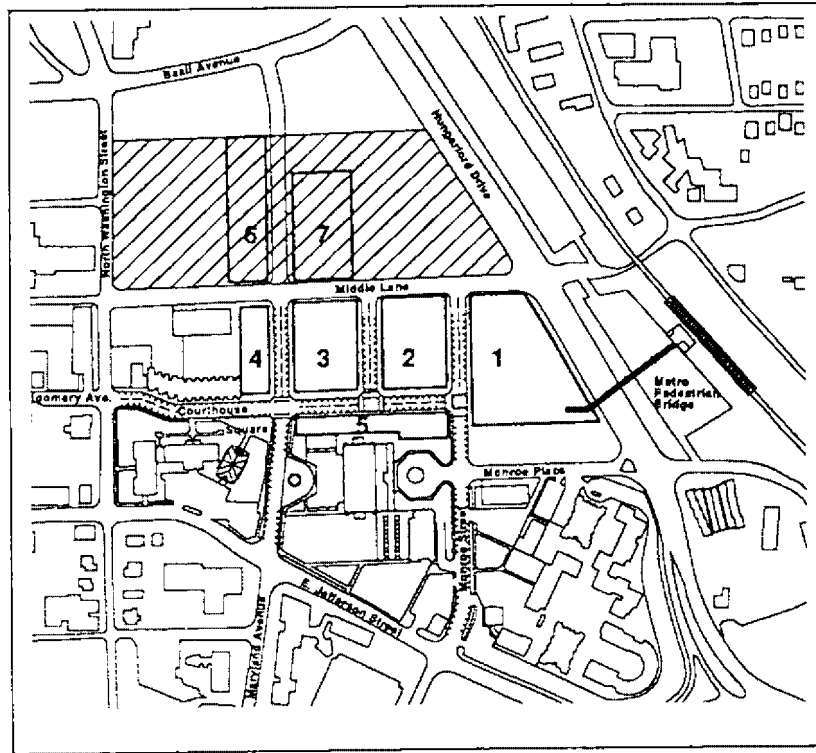
The City is required to indicate what changes are needed to make the application approvable. The TDA (Section 7.08.B) requires the City indicate specific reasons why an application is denied and note the changes required to make an application approvable. If the Mayor and Council find the application does not meet the required findings needed to approve an application, then the necessary changes must be identified in writing. For practical purposes, minor changes can be accommodated through an approval with additional conditions. More substantial changes, where the Mayor and Council desires to see the impact of various recommended changes prior to approval, can also be accommodated by providing direction in the absence of a formal vote to deny an application. In that case, the applicant would revise the application and present the changes to the Mayor and Council.

Development Standards. The City approved the use of Critical Development Standards as a basis for evaluating applications submitted by RCI and its successors (TDA, Section 5.04). The TDA required the City accept and process applications for development and use permits as well as processing text amendments to achieve the Critical Development Standards, which are based on the following criteria:

1. Floor Area Ratio (FAR) and Individual Lot Density: As of the effective date of the TDA, zoning allowed an overall FAR of 6 for development in the Town Center Mixed Use-2 (TCM-2) zone utilizing the optional method of development. This calculation did not permit the averaging of varied densities across each lot in a proposed development. The Zoning Ordinance now permits the overall Development Plan FAR to be calculated over the total gross acreage of RCI's property prior to subdivision and dedication of public improvements considered by the TDA.
2. Height: The overall dimensions for buildings to be constructed in this development proposal shall not exceed the following maximum height restrictions:

Block	Maximum Height
1,2,3,7	235 feet above 448 foot elevation
4	100 feet above 448 foot elevation
5	40 feet above 448 foot elevation
6	80 feet above 448 foot elevation

*All heights to measured from the 448-foot elevation



Area Site Plan - Transition and Development Agreement, 1993

3. Reduction in the Off-Street Parking Requirement: Applications for this development plan are based on a 40% reduction in off-street parking requirements due to its proximity to the Rockville Metro Station.

Collectively, these criteria establish the Critical Development Standards, however, it should be noted that these provisions do not exempt the development proposal from other planning and zoning regulations.

Parking can be provided anywhere within the envelope of lots contained in the PDP. The PDP allows the off-street parking requirements to be met by the project as a whole. The lot that contains the Retail Pavilion (Regal Cinemas, shops, and offices) contains no parking spaces. The required spaces are provided in the rest of the development. As part of the proposed development's parking, more spaces will be constructed than required to serve the development on that lot. These additional spaces will be used to meet the parking requirements of retail and office uses on other lots.

Subterranean Easement. The City and Rockville Center, Inc., former owner of the subject site, entered into a "construction agreement" for public improvements on June 20, 1994. This

agreement allowed for the construction of certain infrastructure improvements, within the Town Center. Specifically, Maryland Avenue's dedicated right-of-way from Jefferson Street to Middle Lane was created. In considering how this arrangement would affect the ability to place underground parking facilities on private property, the applicant requested a subterranean easement be placed on the portion of Maryland Avenue for the purpose of maximizing the area available for parking and other facilities. As a result there exists a 14 foot wide by 6 foot deep "reserved area" below the surface of Maryland Avenue's sidewalk from the intersection of East Montgomery Avenue to East Middle Lane, that can accommodate utilities. This allows the applicant to place proposed below grade parking in the area directly underneath this easement.

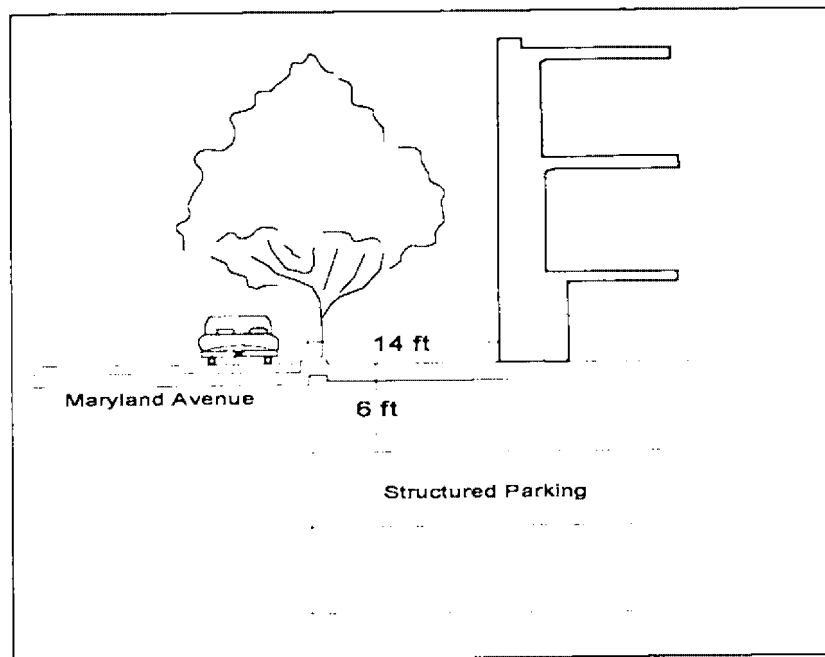


Illustration of Subterranean Easement Area Along Maryland Avenue

Penalty if City Precludes Implementation. In the event of default by the City, the TDA (Section 16) provides RCI any remedy for damages available at law or in equity, provided however, the City's liability for monetary damages are limited to \$3.5 million.

PDP Approval. Most of these provisions were carried forth to the optional method provisions and subsequent PDP approval. This approval specifies the amount of development by use for each block (See chart on next page).

Block	Land Uses	Approved Gross Floor Area (sf)/DU	Proposed Gross Floor Area (sf)/DU
Block 1/Parcel 2-F	Office	394,261	394,261
	Retail	27,500	27,500
	Retail (Restaurant)	9,200	9,200
	Subtotal	430,961	430,961
Block 2/Parcel 2-K	Office	480,375	480,375
	Retail	18,525	18,525
	Retail (Restaurant)	13,500	13,500
	Subtotal	507,900	507,900
Block 3/Parcel 2-J	Office	362,875	0
	Retail	36,750	20,000
	Residential	0	285 DU
	Subtotal	405,325	285 DU/ 20,000
Block 4/Parcel 2-H	Residential	117 DU (min)	117 DU (min)
	Retail	11,260	11,260
	Subtotal	117 DU/ 11,260	117 DU/ 11,260
Block 5/Parcel 2-G	Office	25,700	25,700
	Retail (Fitness)	0	0
	Retail (Restaurant)	19,306	19,306
	Theater	67,370	67,370
	Subtotal	112,376	112,376
Net Total	Office	1,263,211	900,336
	Retail	94,035	77,285
	Retail (Fitness)	0	0
	Retail (Restaurant)	42,006	42,006
	Residential	117 DU	402 DU
	Theater	67,370	67,370
Gross Total		117 DU/ 1,466,622	402 DU/ 1,086,997

ISSUES – CURRENT SITE PROPOSAL

As noted, the application proposes a change in the approved land uses for Block #3, covered by the Preliminary Development Plan approved for Rockville Center, Incorporated (RCI). The applicant (Rockville Renaissance West LLC, Inc. has an interest in Block #3/Parcel 2-J, with a development option on Block 2/Parcel 2-K. Tower 2 Associates, Inc. owns Block 2/Parcel 2-K. As such, the scope of the amendment is limited to Block #3/Parcel 2-J. The development totals for the entire project will be amended based on what is approved by the Mayor and Council for this block.

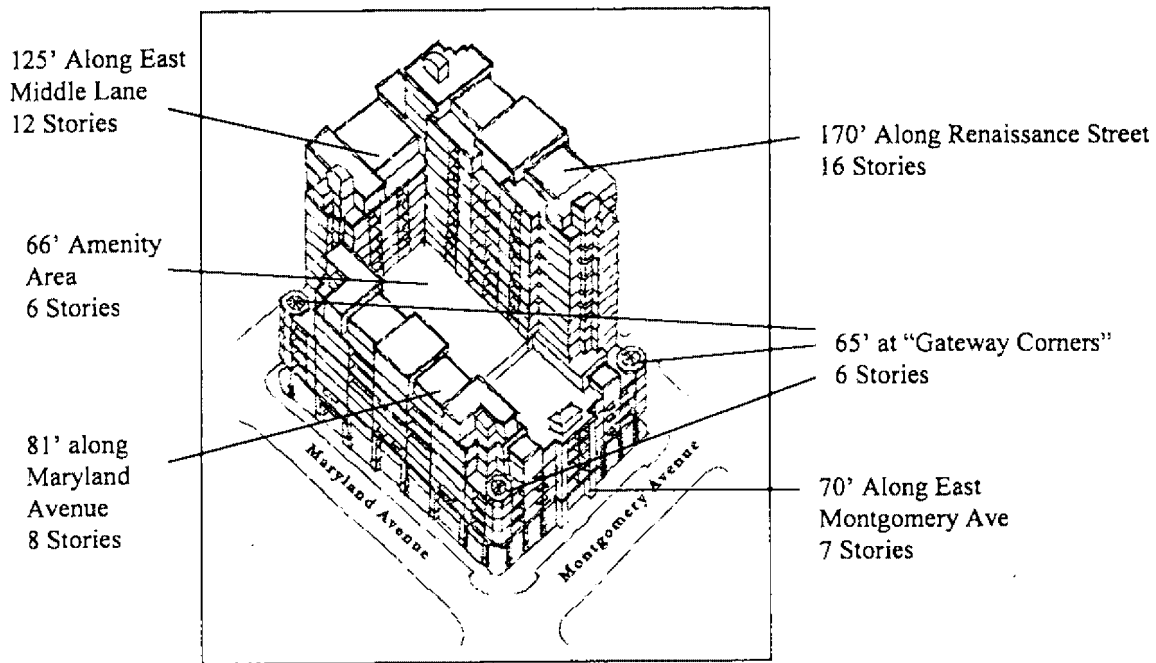
1. **Mix of Uses.** A total of 1,263,211 square feet of office space and a total of 136,041 square feet of retail space are approved for the overall PDP project area (ref. PDP94-001D). Prior

approval allowed for 362,875 square feet of office space and 36,750 square feet of retail space to be developed on Block 3/Parcel 2-J. The proposed amendment as submitted reduces the total amount of office space approved in the overall PDP by 362,875 square feet. Under the amendment as initially submitted, the applicant proposed to construct 17,340 square feet of retail space in lieu of the 36,750 square feet allowed to be constructed on Block 3/Parcel 2-J. Also, under the initial request, the applicant proposed to construct 299 multi family dwelling units, in addition to the 117 units approved for the Block 4/Parcel 2-H of the PDP site area.

However, based on issues and concerns that the Mayor & Council and Planning Commission raised at its joint work session on September 20th 2004 and at the Commission's October 13th 2004 meeting, the applicant has amended the application as follows: a) Reduced the number of number of residential living units from 299 to 285, b) increased the amount of retail space from 17,340 to 20,000 square feet of floor area, and c) redesigned the building by lowering building heights as described in the applicant's correspondence dated October 18, 2004 (See Attachment "A").

2. Building Envelope. The proposed amendment reduces the height and volume of the "loose sweater" that was approved in 1994. This provided for a 142-foot height along Maryland Avenue and a 212-foot height along Renaissance Street. The approved and proposed building heights comply with the maximum height (235 feet) permitted in the approved preliminary development plan on this site. The maximum height permitted in the TCM-2 zone is 235 feet, as measured from 448 feet above sea level. The Mayor and Council are currently considering a text amendment to modify the height measurement requirements to remove the ability to use the 448 feet of above sea level measurement point.

A. Reduced PDP Building Height – Under the initial submission, the proposed building heights on this block would have ranged from 55 feet for the "gateway corners" to 190 feet along Renaissance Street. However, based on feedback and guidance provided by the Mayor & Council and Planning Commission, the proposed building heights of the planned development would range from 65 feet at the "gateway corners" to 170 feet along Renaissance Street. Thus, the applicant has attempted to modify and reduce the height of the proposed project development, based on feedback and statements received by the Mayor and Council and Planning Commission.



Illustrative Axonometric of Proposed Residential Development

Note: Sketch shows original submission- Text shows revisions

B. Building Massing – A concern associated with the building envelope is the massing of the buildings. Staff has heard a variety of comments regarding the difference between the proposed buildings and the other mixed-use residential buildings across Middle Lane and at the Victoria. The applicant prepared a model of the proposal, which can be attached to the proposed Town Square development model to make it easier to evaluate the relationship. The two basic concerns that were identified with regard to the buildings design, was the overall height of the tallest tower and whether the buildings should be closer together in height or maintain the current proposed variation. The applicant submitted the variation in height to provide a range of unit types, variety of views, visual interest and to reduce the bulk of the building, which would result if the whole block were uniform in height.

C. Architectural Variety - The third issue associated with the building envelope is whether the block should appear as a single, architecturally consistent development or appear to be comprised of multiple buildings built over time. Although the actual architecture is not approved during the PDP, staff believes it is appropriate to provide the applicant guidance on this issue to guide the preparation and review of the use permit. Consistent with the approach approved in the Town Square development, staff supports providing the appearance of multiple buildings of varying styles to provide the variety, visual interest, and appearance of a block that developed over time. It is important to note that the building styles may change at locations that make architectural sense. The

varying street-level grades, varying building heights, and frontage on four streets provide a number of options to achieve this goal.

3. Renaissance Street. The existing parking lot contains a private right-of-way with a public access easement that runs from East Montgomery Avenue to Middle Lane between the Regal marquee and the vehicular entrance to the parking lot. This street connection was required as part of the original PDP to provide vehicular and pedestrian circulation. The applicant has proposed shifting the emphasis of the right-of-way from the appearance of a street to that of a pedestrian area that will occasionally have vehicular traffic. The southern portion of the street will contain a vehicular access point to the parking garages that serve the residences (on the Middle Lane side) and the retail pavilion (on the East Montgomery Avenue side). The applicant envisions the center section of Renaissance Street to function in most part as a linear pedestrian plaza that would be a suitable location for art as recommended in the draft *Town Center Arts Master Plan*.

The Department of Public Works Traffic and Transportation staff has reviewed the proposal to determine if Renaissance Street is needed for ongoing vehicular circulation and capacity. DPW staff supports the design and has recommended that Renaissance Street be designed to accommodate through vehicle traffic for access to the parking garage when East Montgomery Avenue is closed off for events, as well as to allow for the possible future use of the street for vehicle traffic.

4. Sidewalk Widths. The widths of sidewalks have been an issue in the Town Square and KSI preliminary development plans. The *Town Center Master Plan* contains specific guidance on the distance from the face of the curb to the face of the building for Maryland Avenue, north of Middle Lane (20-23 feet total with 15 foot pedestrian zone with sidewalk cafe) and North Washington Street (12-15 feet). The *Town Center Master Plan* does not contain specific guidance for sidewalk widths along East Montgomery Avenue, Middle Lane, or Renaissance Street.

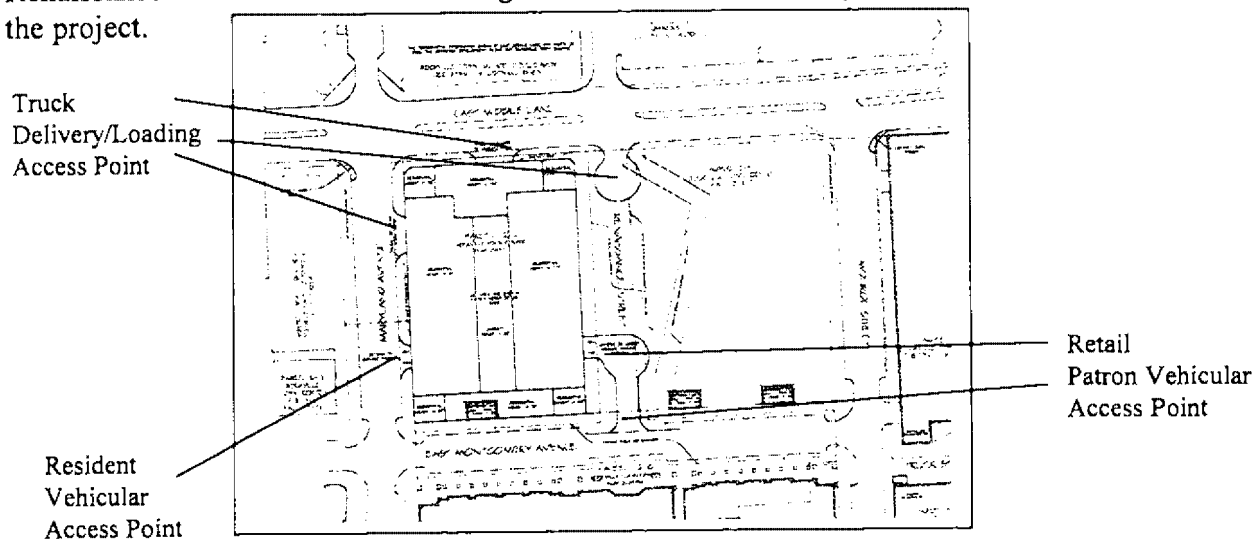
Sidewalks have already been constructed on three sides of the property to implement the approved preliminary development plan for the Rockville Center development. As constructed, they provide ten (10) feet of pedestrian travel way and five (5) foot tree panels, next to the curb. During discussions of the recently approved PDPs, the goal has been to achieve at least 15 feet between building faces and the face of the curb in the Town Center. On streets with on-street parking, seven (7) foot wide tree panels are used to allow pedestrians to reach parked cars without walking on grass or dirt and to provide outdoor seating opportunities. Seven (7) foot wide tree panels are used where no on-street parking is permitted.

On the Town Square PDP, minimum unobstructed pedestrian pathways are required to be six (6) to nine (9) feet wide with the remaining width used for outdoor seating, trees, parking meters, light poles, bike racks, etc. Total minimum widths ranged from ten (10) to twenty (20) feet.

Staff recommends the sidewalks proposed for the subject development must have a minimum eight (8) foot wide unobstructed path for pedestrian flow, with an accompanying minimum seven (7) foot wide tree planting strip, for both site frontages on East Middle Lane and Maryland Avenue. With the ten (10) foot wide public utility easement mostly under the sidewalk, the total distance between the curb and proposed building increases from 14 to 17 feet. Sidewalks located along East Montgomery Avenue and Renaissance Street, which are not public streets, must have a minimum eight (8) foot wide unobstructed pathway for pedestrian movement, accompanied by a minimum seven (7) foot wide amenity space.

5. Parking, Access, Site Circulation. Currently, there are 203 surface parking spaces on the subject site (Parcel 2-J) used in part to satisfy the parking requirements for the Retail Pavilion located on the south side of East Montgomery Avenue. The applicant proposes to construct a minimum of parking 709 spaces, contained in a structured facility, located internally within the project development. The configuration will comprise two below-grade levels with one ground level and multiple above ground level parking. During construction, the applicant will temporarily relocate all 203 parking spaces required for use and operation of the Retail Pavilion.

There will be two separate and exclusive access points proposed for separating resident and retail patron vehicles. Patrons of both the Retail Pavilion and retail uses within the project would access below grade parking via East Montgomery Avenue and Renaissance Street. Staff notes that both East Montgomery Avenue and proposed Renaissance Street are located within public use easements as opposed to being located within publicly dedicated rights-of-way. Residents would access above ground parking from Maryland Avenue. A loading area for both residential and retail uses is designed to have trucks enter along Middle Lane and exit onto Maryland Avenue. In addition, a cul-de-sac delivery area access is provided from Middle Lane onto Renaissance Street. The detailed design will be reviewed during the use permit review phase of the project.



Proposed PDP94-0001E Site Plan

Required Parking For Uses On Block 1/Parcel 2-F

USE	Approved (sf)/DU/Theater	Proposed Area (sf)/DU	Approved Parking Req	Proposed Parking Req	Approved Req # of Spaces	Proposed Req # of Spaces	Approved Req # of Space @ 40%	Proposed Req # of Spaces @ 40%
Acc. Restaurant- Trans	1,720	1,720	1 sp/5 emp	1 sp/5 emp	1		1	1
Office	125,275	125,275	1 sp/300 sf	1 sp/300 sf	418	418	251	251
Club (Fitness Center)	12,679	12,679	1 sp/200 sf	1 sp/200 sf	64	64	38	38
TOTAL					483		290	290

Required Parking For Uses On Block 5/Parcel 2-G

Restaurant								
Patron Area	6,435	1 sp/50sf patron area			129		78	
Employees	20 emp	1 sp/2 emp			10		6	
Outdoor Seating	2,400	1 sp/80 sf patron area			30		18	
Retail	700	1 sp/200			4		3	
Theater								
Auditorium Seats	2,495	1 sp/4 seats			624		374	
Employees	30 emp	1 sp/2 emp			15		9	
Office	25,844	1 sp/300 sf			87		52	
TOTAL					899		540	

Required Parking For Uses On Block 1/Parcel 2-K

No Development								
Total							158	158

Required Parking For Uses On Parcel 2-L 51 Monroe

Office Use Spaces Per Agreement Between Property Owners							138	138
TOTAL							138	138

Required Parking For Uses On Block 3/Parcel 2-J

Office	362,875	0	1 sp/300 sf					
Restaurant	(8,550 total)							
Patron Area	4,275	1 sp/50sf patron area			86		52	
Employees	28	1 sp/2 emp			14		8	
Outdoor Seating	2,000	1 sp/80 sf patron area			25		15	
Retail	36,750	1 sp/200			58		35	
Residential								
Condominiums (1 BR)	0	128 DU	1.25 sp/1 Bdrm		160		160	
Condominiums (2 BR+)	0	157 DU	1.50 sp/2 Bdrm		236		236	
NET TOTAL					579		506	
Replaced PDP Parking					203		203	
TOTAL					782		709	

Shared Parking Tabulation Per Sec. 25-693 Zoning Ordinance

Aggregate Use	Net Spaces	Weekday		Weekday		Nighttime
		Daytime	Evening	Daytime	Evening	
		6 AM - 6 PM	6 PM - Midnight	6 AM - 6 PM	6 PM - Midnight	Midnight - 6 AM
Parcel 2-L (51 Monroe)	138	138	138	138	138	138
Office	303	303	31	31	16	16
Retail	38	19	35	38	27	2
Restaurant	177	89	177	177	177	18
Accessory Restaurant- Tra	1	1	1	1	1	0
Residential	396	238	357	317	357	396
Theater	383	153	383	307	383	38
Club (Fitness Center)	38	19	38	38	38	4
Total	1,474	960	1,160	1,047	1,137	612

Highest Number of Parking Spaces: Weekday Evening at 1,160 spaces throughout PDP

Provided Parking	Spaces
Block 1/Parcel 2-F	435
Block 2/Parcel 2-K	158
Block 3/Parcel 2-J	709
Block 4/Parcel 2-H	39
Block 5/Parcel 2-G	0
1,341 parking spa (181 Surplus)	

Listed above is the parking tabulation for the overall PDP, which includes the subject site. Parking for the entire PDP area is calculated using a waiver for a 40% reduction in the number of spaces required for nonresidential uses granted by the Mayor & Council in 1994. The approved PDP, under the optional method of development, also utilizes the shared parking calculation for uses at different times of the day allowed under Section 25-693 of the Zoning Ordinance

6. Reduction in Site Generated Vehicular Traffic. Under the proposal as initially submitted, the proposed development was to contain 292 residential condominium units, 7 townhouse/loft type units, and 17,340 square feet of retail space. As noted, based on feedback received from the Mayor & Council and Planning Commission, the applicant has amended the proposal, which now calls for 285 residential living units and 20,000 square feet of retail space. If approved, the subject proposal would replace the 368,575 square feet of office space and 36,750 square feet of retail space currently approved for the subject site/parcel. As per the traffic analysis provided by the applicant, the City's Traffic & Transportation staff have determined that under the approved office/retail plan for the subject site, there would be 258 vehicle trips generated in the a.m. peak hour and approximately 398 in the p.m. peak hour. However, under the amended residential/retail plan for the site, it is projected that 123 trips would be generated in the a.m. peak hour and 163 vehicle trips in the p.m. peak hour. Thus, under the subject proposal, there would be a reduction of 135 trips in the a.m. peak hour and 235 vehicle trips in the p.m. peak hour, generated from the proposed use when compared to the office/retail development currently approved for the site (See Attachment "E").

7. Projected Student Generation from Proposed Site Development. Montgomery County Public Schools will provide student projections from this proposed residential development, in its review of the use permit application. The Mayor & Council and Planning Commission expressed concerns about the accuracy of the methodology used by County School system to project student enrollment.

8. Shadow Impact Study. In accordance with Section 25-682(4) of the Zoning Ordinance the applicant was required and did complete a shadow study which analyzed the probable shadows cast by the planned site development on December 21st between 10:00 a.m. and 2:00 p.m. on existing or approved residential structures during said time frame. The approved PDP predates the Town Square development, which will include a residential component, located on the north side of East Middle lane, opposite the subject site. The requested change in use from the approved office component to residential for Parcel 2-J reduces the extent of the shadows shown in the previous shadow study and therefore is not applicable under the request as submitted (See Attachment "D").

Rockville Town Center Master Plan & Design Guidelines

This amendment is the first for the Rockville Center project since the adoption of the Town Center Master Plan. The overall Master Plan goal is to create a daytime, evening, and weekend

activity center that is easily identifiable, pedestrian oriented, and incorporates a mix of uses and activities. The subject site lies within the Town Center Planning Area as well as its Urban Design Overlay District. The following features are consistent with the guiding principles detailed in the plan.

- Maryland Avenue and East Montgomery are treated as the new Main Street for Town Center. Together, these streets create a pedestrian spine activated by pedestrian activities with street level commercial retail uses. The organization of uses will accommodate street closings along East Montgomery for City events. The project acts as both a connection and anchor for the Town Center. It functions as a primary connection to Rockville Metro Station along East Montgomery Avenue as well as anchors the “entertainment district,” created by the Retail Pavilion development, with additional entertainment activities, street level retail and residential condominiums.
- Emphasis is placed on main street scale of massing. Varying heights are created along each street frontage with residential towers placed along a north-south axis. Heights are gradually increased with highest points located along the eastern portion of the site. Overall, a varying skyline is achieved through low, mid, and high-rise elements.
- Different uses are brought to the street level with varying heights, façade treatments, and residential unit types. Storefronts will utilize a 20-foot floor-to-floor height design. The materials used will incorporate brick, glass, and varied detailing throughout the project, from base to roofline. The development will provide design guidelines for retail entrances, displays, and signage (*Architectural concept plans, which were included in the initial submission of the development proposal, were for illustrative purposes. Final plans will be submitted at the Use Permit stage*).
- Circulation and access is designed to carry vehicular traffic in front of retail to enter parking from the corner of East Montgomery Avenue and Renaissance Street. Patrons would exit the parking facility at the same point of vehicular entrance for clear orientation. Hardscape materials will reinforce the relationship between street front retail and adjacent Regal Theater providing reinforcing the use of space as both destination and departure site.
- The PDP reinforces the street grid in the Town Center providing opportunities to create “gateway corners.” Architectural treatments will create an identity for the project. Together with lowered heights and the placement of street level retail and lobby entrances, these corners will carry a consistent theme throughout the project.
- A projecting cornice line atop the second story (35 feet) will be created to define the street/pedestrian scale. This will produce a horizontal feature connecting each “gateway corner” and minimize the effects of grade change on the site. By locating the parking internally within the project, the development is brought up to the street, consistent with the Town Center Plan.
- The streetscapes incorporate 15-foot minimum sidewalk widths, street trees, and on-street parking to create a vibrant street design. Dimensions of the sidewalk along East Montgomery Avenue will expand to 24 feet at the intersection of Renaissance Street and

frame a pedestrian peninsula capable of accommodating public art and event gathering while allowing for unobstructed travel.

- The project incorporates urban open space into the design of sidewalks throughout with areas for public gathering, outdoor dining, and landscaped amenity areas. Renaissance Street will include both private and public open space for residents and pedestrians. Both street and sidewalk treatments will promote this use. A residential amenity area atop the parking garage will create an opportunity for private open space. (Final details will be provided at Use Permit Stage).

COMMUNITY NOTIFICATION PROCESS:

Notification cards were sent to abutting property owners informing them of the development proposal and pending Planning Commission and Mayor & Council meetings, where the subject application will be publicly heard and considered. Notices were sent to 250 property owners located in the site area, and to all civic association presidents in the City. A list of addresses is contained in the project's application file for public review and inspection.

/cdc/rlc/rjs

Attachments

Attachment "A" – Application Submittal & Update

Attachment "B" – Approval Letter PDP94-0001

Attachment "C" – Approval Letter PDP94-0001D

Attachment "D" – Response to Shadow Impact Study for Approved PDP

Attachment "E" – Staff Traffic & Transportation Analysis

Attachment "F" - Comparison of PPD to Use Permit Process

Exhibit "1" – Site Plan

Exhibit "2" - Site Plan of the Overall PDP

Exhibit "3" – Approved & Proposed Axonometric View of Development

SHULMAN ROGERS GANDAL PORDY & ECKER, P.A.

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Donald R. Rogers
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David A. Pardy*
David D. Freishman
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Christopher C. Roberts
Jeffrey A. Shanc
Edward M. Hanson, Jr.
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* Resired

Writer's Direct Dial Number:

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nregelin@srgpe.com

October 18, 2004

Mr. Cas Chasten
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

ATTACHMENT "A"

Re: Rockville Renaissance West (Akridge)
Revisions to the Preliminary Development Plan PDP94-001E
Our File No. 109-673-002

Dear Cas:

Under separate cover you have received from Macris Hendricks the revised Preliminary Development Plan. Please note that in response to the input of the Mayor and Council and the Planning Commission from the work session on September 20th and meeting on October 13th, the revised PDP reflects the following design elements:

1. Reduced the number of dwelling units from 299 to 285.
2. Converted the proposed street level town lofts on Renaissance Street from residential to retail.
3. Increased street level retail from 17,340 SF to 20,000 SF. Retail is now on all four sides of the project.
4. Eliminated 2 stories of the residential tower along Renaissance Street reducing it from 18 stories to 16 stories. The 16th story penthouse units have been set back from the face of the building which reduces the visibility of the top floor. The building now projects the appearance of a 15 story building.
5. Reduced the allowable zoning height under the original PDP from 212' to 170' along Renaissance Street, from 212' down to 70' along East Montgomery, from 142' down to 81' along Maryland Avenue, and from 142' down to 125' along Middle Lane.

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ECKER, P.A.

Page Two

6. Maintained the lower corner element on all four corners of the project. The height of the corner elements remains the same as depicted on the original application and renderings although the PDP height limitation has been revised to 65 feet to allow the volume of space within the architectural cupola features that had been shown on the corner elements to be included within the dwelling unit of the floor below.
7. The tower on Renaissance Street is set back 30' from Middle Lane and 30' from East Montgomery Avenue. The height of the building within the setback area is only 65'. A setback has been introduced along the length of Renaissance Street: the tower on Renaissance Street is set back five feet from the façade of the building base.
8. The 81' section of the building along Maryland Avenue is set back 30' from Middle Lane and 30' from East Montgomery Avenue. The height of the building within the setback area is only 65'.
9. Based on the reduced dwelling unit count, the total number of parking spaces within the project is 709 spaces. No time of day reductions have been taken to reduce the residential parking requirement. The total number includes 203 parking spaces for patrons to the Retail Pavilion.

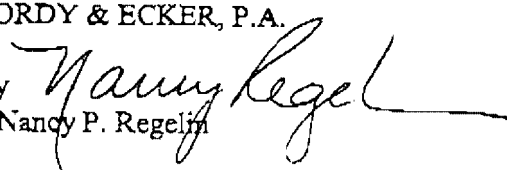
The overall land uses and areas are now proposed at:

For Lot 3, Parcel 2-J: 285 DU
 20,000 SF Retail

For Lots 1 through 5 inclusive for the entire PDP:
 402 DU
 119,291 SF Retail
 67,370 SF Theatre
 900,336 SF Office

The Applicant will proceed with having renderings produced which reflect the foregoing in time for the Planning Commission meeting on October 27th and the public hearing on November 1, 2004. Please let me know if you need anything further.

Very truly yours,
SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.

By 
Nancy P. Regelin

APPLICATION FOR PRELIMINARY DEVELOPMENT PLAN
City of Rockville, Maryland

This application must be typewritten or printed and notarized and submitted to the Planning Division for filing. All items must be completed and the required documents and filing fee must accompany this application.

(NOTE: This application is not considered filed until all required information is accepted.)

APPLICATION IS HEREBY MADE WITH THE PLANNING COMMISSION FOR ROCKVILLE FOR APPROVAL OF A PRELIMINARY DEVELOPMENT FOR THE PROPERTY DESCRIBED BELOW:

LOCATION OF PROPERTY (address) 196 East Montgomery Avenue
Subdivision Rockville Town Center Lot 2-J Block _____
Present Zone TCM-2 Property size (in square feet) 78,933 sf

APPLICANT:

Owner or Authorized Agent ONLY*

Rockville Renaissance West LLC
Name c/o Akridge
601 13th Street, NW, Suite 300N
Address
Washington, D.C. 20005
(202) 638-3000
Telephone

OWNER OF RECORD

(if other than Applicant)

Rockville Renaissance West
Name c/o Blackacre Capital Partners
299 Park Avenue, 23rd Floor
Address
New York, New York
(212) 891-2140 H. Glatzer
Telephone

ARCHITECT/ENGINEER/OTHER

Cooper Carry Architects
Name
112 South Alfred Street
Address
Suite 200
Alexandria, VA 22314
(703) 519-6152 David Kitchens
Telephone

Gross Floor Area: _____

Area devoted to retail sales: 17,340

Max. Number of employees per shift: _____

If residential, number of units: 289

Number of Parking Spaces _____

Required by Zoning Ord.: _____

Provided: _____

Estimated daily domestic water and sewer use:

Gals. per day: Water 90,394 Sewer _____

Gals. per minute: Water 63 Sewer _____

Estimate Fire Protection Demand

(in GPM) 1500

To be completed by the Planning Division

Application No. _____

Filing Date _____

Filing Fee _____

Decision _____

Decision Date _____

Staff Contact _____

* A letter of authorization from the owner must be submitted if this application is filed by anyone other than the owner.

Preliminary Development Plan
Page 2

THE FOLLOWING DOCUMENTS ARE TO BE FURNISHED AS A PART OF THIS APPLICATIONS AS REQUIRED BY THE PLANNING COMMISSION:

1. A written description of the plan of development clearly stating how the project will achieve the intent of the Town Center Article of the Zoning Ordinance and adopted Master Plan.
2. A concept plan (11 copies) at 100' scale, or larger, supporting the above statement and showing:
 - A. The general location and approximate height, size and uses of all proposed buildings.
 - B. A vehicular and pedestrian circulation system including public and private streets, walkways, bikeways, and parking areas (on and off site).
 - C. A system of public and private open spaces, buffers and recreational areas with estimation of acreage to be dedicated to the public or retained in private ownership.
 - D. Topography showing contour intervals at 5', existing buildings, wooded areas, water courses and 100 year flood area.
 - E. Existing features adjacent to project boundary.
3. A statement indicating how maintenance and ownership of any common facilities will be resolved.
4. A preliminary schedule of development including the time specific staging and phasing of :
 - A. Residential areas.
 - B. Nonresidential development.
 - C. The construction of streets, utilities and other improvements necessary to serve the project area (on and off site).
 - D. The dedication of land to public use.
 - E. The dedication and construction of public and private vehicle and pedestrian ways.
5. The submission of a Traffic Impact Study in conformance with the Standard Traffic Methodology for all uses that generate more than 100 vehicles trips during the peak hours as defined therein.
6. A Forest Stand Delineation Plan and preliminary Forest Conservation Plan prepared in accordance with Rockville's Forest and Tree Preservation Ordinance.

Rockville Renaissance West, LLC

By: _____

Signature of Applicant

State of District of Columbia

County of _____

Subscribed and sworn before me this 15th

day of April

2004
~~1999~~

Kathy E. McDaniel
Notary Public

My Commission expires _____

Kathy E. McDaniel
Notary Public, District of Columbia
My Commission Expires 06-30-2006

STATEMENT OF APPLICANT

ROCKVILLE RENAISSANCE WEST, LLC
THE FITZGERALD
Parcel 2-J Rockville Town Center
196 EAST MONTGOMERY AVENUE

REQUEST:

The Applicant requests approval of an Amendment to Preliminary Development Plan 94-001D under Section 25-682 of the City Code to redevelop Parcel 2-J (hereafter referred to as "the Property" or "Block 3" of the PDP or "Parcel 2-J") from its previously approved land use of office and retail to a mixed use development of primarily residential with street level commercial, residential amenity facilities, and structured parking. The new project is referred to as "The Fitzgerald". The Amendment to the Preliminary Development Plan proposes:

Block	Land Uses	Prior Approved Gross Floor Area	Proposed Gross Floor Area and Dwelling Units
3	Residential		299 DU
	Office	362,875 SF	
	Retail*	42,450 SF**	17,340 SF
Total		405,325 SF	299 DU/ 17,340 SF

* "Retail" includes retail, commercial, and service uses, office uses such as bank offices, restaurants, and other non-residential uses permitted in the TCM-2 zone. ** This number is the mathematical difference between the total approved density on Block 3 and the approved Office density under the September 10, 2002 approval letter for PDP94-001D.

The balance of the approvals for Blocks 1, 2, 4 and 5 in the Preliminary Development Plan PDP94-001D would remain the same as previously approved:

Block	Land Uses	Approved Gross Floor Area	Gross Floor Area DU
1	Office	394,261 SF	394,261 SF
	Retail	27,500 SF	27,500 SF
	Retail (Restaurant)	9,200 SF	9,200 SF
	Subtotal	430,961 SF	430,961 SF
2	Office	480,375 SF	480,375 SF
	Retail	18,525 SF	18,525 SF
	Retail (Restaurant)	13,500 SF	13,500 SF
	Subtotal	507,900 SF	507,900 SF
4	Residential	117 DU (min)	117 DU (min)
	Retail	11,260 SF	11,260 SF
	Subtotal	117 DU/ 11,260 SF	117 DU/ 11,260 SF

Block	Land Uses	Approved Gross Floor Area	Gross Floor Area/DU
5	Retail and Restaurant	19,306 SF	19,306 SF
	Office	25,700 SF	25,700 SF
	Theatre	67,370 SF	67,370 SF
	Subtotal	112,376 SF	112,376 SF
Total	Office	1,263,321 SF	900,336 SF
1-5	Retail	137,241 SF	116,631 SF
	Theatre	67,370 SF	67,370 SF
	Residential	117 DU	416 DU

The Amendment to the Preliminary Development Plan is attached as Section 2. Concept plans for proposed buildings and improvements are included only for *illustrative purposes* and will be formally submitted in final form at the time of Use Permit application. Illustrative Plans, Illustrative Site Plan and Illustrative Perspectives are shown in Section 3. An amendment to Use Permit USE96-0565 to modify the temporary surface parking lot on Parcel 2-J will be submitted concurrently with the filing of an Use Permit for the new improvements on Parcel 2-J.

PROPERTY:

The Property is Parcel 2-J, Rockville Town Center per Plat No. 21457 containing 78,933 square feet of land. The site is zoned TCM-2 and located within the Rockville Town Center Planning Area. The Property is bounded by Maryland Avenue, Middle Lane, Renaissance Street (platted paper street surface easement within Parcel 2-J) and East Montgomery Avenue. The Property is located immediately north of the Retail Pavilion and the Regal Cinemas and is improved with an existing surface parking lot approved under Use Permit 96-0565. The site is within 1500 feet of the Rockville Metro station, one and one-half blocks due west of the station site. The Property is immediately south of Block 5 of the Federal Realty Investment Trust/Danac-Ross/City "Rockville Town Square" development.

RELATED ACTIONS:

Record Plat "Plat of Resubdivision, Parcels 2-J & 2-K, ROCKVILLE TOWN CENTER" recorded among the land records of Montgomery County in Plat Book 198 as Plat No. 21457 approved by the Planning Commission September 12, 1998.

Preliminary Development Plan PDP94-001 Rockville Center Inc. For redevelopment of the former Rockville Mall site, allowing up to 1,274,625 square feet of office development, 148,997 square feet of retail development and 117 residential units; approved by the Planning Commission on April 27, 1994.

Amendment to Preliminary Development Plan PDP 94-001, Rockville Center, Inc. for reallocation of approved uses and densities in Rockville Center, including 1,261,411 of office space, 94,035 square feet of retail space, 43,804 square feet of restaurant space, 67,370 square feet of theatres and a minimum of 117 dwelling units; approved by the Planning Commission on June 19, 1996.

Amendment to Preliminary Development Plan PDP 94-001B, Rockville Center, Inc. for modification of conditions to the "Required Traffic Impact Mitigation Measures and Transportation Demand Program Elements"; approved by the Planning Commission on July 22, 1998.

Amendment to Preliminary Development Plan PDP 94-001C, Rockville Center, Inc. for reallocation of approved uses and densities in Rockville Center, including 9200 square feet of office space and 13,500 square feet of Retail (Fitness Center); approved by the Planning Commission on August 2, 2000.

Amendment to Preliminary Development Plan PDP 94-001D, Rockville Center, Inc. for reallocation of approved uses and densities in Rockville Center, including 13,500 square feet to office space from Fitness Center on the second floor of the east wing; approved by the Planning Commission on September 4, 2002.

Amendment to Preliminary Development Plan PDP 94-001D, Rockville Center, Inc. for minor modification of approved uses modifying 1800 square feet of Retail restaurant on the first floor of the east wing to office space for use by the Mayor and Council (part of former Benitos space for Greater Rockville Partnership (REDI) offices); approved by the City Manager and Director of Community Planning and Development in December 2003.

Use Permit USE96-0565, Rockville Center, Inc. for a 105,477 square foot restaurant and theatre building and temporary surface parking lot in the TCM-2 zone; approved by the Planning Commission on July 5, 1996.

Amendment to Use Permit USE96-0565, Pavilion Partners, Inc. for change in use of 9200 square feet of second floor space in the Retail Pavilion to office and 13,500 square feet of second floor space to fitness establishment; approved by the Planning Commission on August 2, 2000.

Amendment to Use Permit USE96-0565, Pavilion Partners, Inc. for change in use of 13,500 square feet of second floor space in the Retail Pavilion to office in lieu of fitness establishment; approved by the Planning Commission on September 4, 2002.

Amendment to Use Permit USE96-0565, Pavilion Partners, Inc. for reconfiguration of the parking lot entrance from East Middle Lane; approved by the Planning Commission on September 10, 2003.

Amendment to Use Permit USE96-0565, Pavilion Partners, Inc. for change in use of 1800 square feet of first floor Retail Restaurant space in the Retail Pavilion to office for use by the Mayor and Council; approved by the City Manager and Director of Community Planning and Development in December 2003.

Road Code Waiver, Rockville Center, Inc. for waiver from business district road construction standards for "Center" Street (now Renaissance Street), East Montgomery Avenue, Maryland Avenue and Monroe Street approved by the Mayor and Council September 12, 1994.

Transition and Development Agreement between the Mayor and Council of Rockville and Rockville Center, Inc. dated July 13, 1993, as amended, recorded among the land records of Montgomery County, Maryland in Liber 12230 at folio 001.

APPLICATION:

The Applicant proposes to construct on the Property the residential condominium mixed use project to be known as The Fitzgerald and described below.

Site Description

Rectangular in shape, the Property is a subdivided lot known as Parcel 2-J Rockville Town Center totaling 78,933 square feet (1.8 acres). The property is bounded by East Montgomery Avenue to the South, Middle Lane to the North, Maryland Avenue to the West, and Renaissance Street to the East within an easement area on Parcel 2-J. The site slopes down from south to north with a difference in elevation approximating 10 feet. Along the southern Property line the site is encumbered by emergency egress easements associated with the Regal Cinema theatre across East Montgomery Avenue. The theatres are located below grade and feature emergency exit stair towers which exit on the south side of the subject site through one stair tower on Parcel 2-J and two on the adjacent Parcel 2-K. The stair towers may be relocated pursuant to the terms of the egress easement.

Additionally, Parcel 2-J includes the Renaissance Street public use surface easement on the eastern portion of the site which traverses from East Montgomery Avenue to East Middle Lane. The Project's structured parking facility is to be built as originally contemplated beneath the Renaissance Street surface easement. The easement area totals 17,740 square feet and is requested to be abandoned as a public street or, if the City does not want to abandon, then incorporated in the development in part as a vehicular ingress/egress to the Project and in part as pedestrian space, but not as a standard business district street. This use is consistent with the draft plan for Arts and Arts Related Activities for Rockville Town Center which shows a vision for Renaissance Street as a pedestrian oriented space.

Parcel 2-J also has the benefit of a recorded subterranean easement below the sidewalk along Maryland Avenue to permit underground parking to extend under the sidewalk.

The site is currently improved with a surface parking lot which spans both Parcel 2-J and Parcel 2-K. Parcel 2-J contains approximately 203 spaces of the total 361 spaces in the surface parking lot. Access to the surface lot is off of East Middle Lane in the approximate location of Renaissance Street.

Project History and Foreword

The Property is subject to the rights and obligations of a general development agreement between the Mayor and Council of Rockville and Rockville Center, Inc. (predecessor in title to the Property) known as the Transition and Development Agreement ("TDA") executed July 13, 1993. The TDA remains in effect until June 21, 2021. The TDA provides for the City to support certain heights and densities on the five blocks. With respect to Block 3, under the TDA the allowable height is 235 feet and the allowable density is 432,000 square feet.

The City in implementing the terms of the Transition and Development Agreement approved the 1994 Master Plan, zoning text amendments for the optional method for PDPs in the TCM zones and a shared parking code, and through the Planning Commission, a Preliminary Development Plan 94-001 for five blocks, including the Property, which allowed the heights and densities set forth in the TDA. The PDP has no stated expiration date.

PDP 94-001 approved for Block 3 (Parcel 2-J) a 405,325 square mixed use project with a right to shift up to 15% of the density between lots without an amendment to the PDP. The massing and heights were defined by "loose sweater" exhibits in the PDP. With respect to Block 3, the loose sweater provided for a 142 foot height along Maryland Avenue and a 212 foot height along Renaissance Street (then referred to as Center Street). A copy of the PDP axonometric ("loose sweater") for Block 3 is attached as Exhibit 1-A.

Traffic capacity for the total 1,466,622 square feet of development under the PDP was approved and reserved at the time of approval and a package of traffic mitigation measures and transportation demand management program elements were approved keyed to phases of the overall development. Traffic mitigation measures were completed by the owner as scheduled for the phases of development.

This Amendment to the PDP encompasses changes only for Parcel 2-J (Block 3) of the PDP. All other Blocks in the PDP remain the same as previously approved.

It is important to note that the plan takes into careful consideration the "spirit" of the Preliminary Development Plan PDP94-001 (referred to simply as "PDP") with respect to "stepping up" the density from west to east as the development moves closer to Rockville Pike.

Additionally, the proposed heights described in this Amendment are far lower than the maximum heights called for in the original TDA and PDP. Furthermore, the idea in the original PDP of significant setbacks at all gateway corners of each phase at the 55 foot height level has been incorporated into the proposed design.

At the time of the original approval of the PDP in 1994, all five blocks were owned and controlled by Rockville Center, Inc. and its principal, Mitchell B. Rutter. Since 1994, the blocks have been subdivided and transferred so that today ownership of the five blocks is separate and diverse. Mitch Rutter retains an interest only in the entities owning Blocks 1 and 4. The Applicant, Rockville Renaissance West, LLC, only has an interest in Block 3/ Parcel 2-J with a development option on Block 2. Tower 2 Associates, Inc. owns Block 2/ Parcel 2-K. Pavilion Partners, Inc. owns the Retail Pavilion on Block 5. Therefore, this application by Rockville Renaissance West, LLC is only for Block 3/ Parcel 2-J. A copy of the application has been sent to the other owners prior to filing.

Project Description

Block 3/ Parcel 2-J

The Project is unlike anything else proposed for Town Center.

The Project will be located on Block 3/ Parcel 2-J and will feature a residential condominium and retail building with approximately 299 residential dwelling units and approximately 17,340 square feet of urban retail space at the ground level. Seven of the 299 dwelling units will be street level town-lofts with direct pedestrian access to Renaissance Street. The Project will also include structured parking spaces on multiple levels at and above grade and multiple below grade levels, which will serve the Project residences and guests, on-site retail, as well as the uses located in the Retail Pavilion to the south, including the Regal Cinema theatres.

The retail space and seven town-loft units will be located at the ground level. Specific use for the approximately 17,340 square feet of retail space is unknown at this time. However, for planning purposes it is anticipated that approximately 8,550 square feet of restaurant space with additional outdoor seating area would be located along East Montgomery Avenue. The balance of the retail is anticipated to be

comprised of smaller shops that would complement the retail included in the Town Square project as well as the Retail Pavilion across East Montgomery Avenue.

The main entrance to the residential condominium building is planned at the northeast corner where Middle Lane and Renaissance Street intersect. Condominium units will ring the above-grade parking structure. An amenity deck for residents' use will sit atop the parking garage.

The proposed Project will reduce the height along Maryland Avenue from the previously approved height of 142 feet down to 81 feet and along Renaissance Street from the previously approved height of 212 feet down to 188 feet.

The Project heights vary at each corner, at mid-block and for each street frontage – East Montgomery Avenue, Maryland Avenue, Middle Lane and Renaissance Street. The Project heights are designed to step up from East Montgomery to Maryland to Middle to Renaissance to create an signature building which is compatible with the Red Brick Courthouse, the Retail Pavilion and Town Square while fitting comfortably in with its high rise neighbors – 51 Monroe Place, the Judicial Center, the Executive Office Building, the Victoria, the Americana and Foulger-Pratt..

The proposed plan includes 292 condominium dwelling units and 7 town-loft units. A broad mix of unit types from one bedroom units to three bedroom penthouse units will be included in the Project as well as the town-loft units on Renaissance Street. Ceiling heights will vary depending upon the location of the units, but the current vision includes some “loft” style units in the project. These typically feature higher, open ceilings. Units located on the lower levels adjacent to parking garage levels will feature direct access to the parking garage.

This Project offers a distinctive living opportunity in Rockville Town Center which will appeal to a broad spectrum of residents due to the location, vistas, variety of unit types, large unit sizes and high rise construction. As a building which incorporates high-rise construction techniques, it will be a fully accessible, ADA compliant building. Parking will be convenient and lower units will have direct access to allocated parking spaces. Vistas in the tower will be incomparable – Sugarloaf, Catoctin Mountains, the National Cathedral and Lake Needwood. For City empty-nester residents looking to move to Town Center, the larger unit sizes will provide a choice of living environments from penthouses to charming street level town-lofts.

Construction commencement will immediately follow the approval and permitting process. Applicant desires to commence construction in 2004.

Summary

This Project represents an ideal solution for linking Metro to the new Town Square by putting in place the activated pedestrian spine along East Montgomery Avenue and Maryland Avenue that is called for in the Town Center Master Plan. Perhaps more important, the Project will be a signature building adding to both the skyline and streetscape identity of Rockville Town Center. The massing of the proposed development on Parcel 2-J creates a seamless, yet tapered transition from the Town Square towards Rockville Pike, the Rockville Metro station and the high-rise commercial developments around the Executive Office Building, the Judicial Center and 51 Monroe Place. The scale of this development on Block 3 has been an embedded vision for the area since the 1994 Master Plan and carried through to the 2001 Master Plan.

The Project is the perfect complement to the planned Town Square, as it is not a mere duplication, but rather adds a different context and building structure representative of a Town Center developed over time. Combined, these elements create an urban living environment, which has a proven track record of success in neighboring communities.

Comparison of Approved Office Building to Proposed Residential Building:

The original 1994 Preliminary Development Plan concentrated on an office-dominant mix of uses reflective of the market demands at that time. The plan focused on creating a strong main street connection to Metro that gave emphasis to the office worker being the primary populator. The requirements for large office floor plates and tall towers to achieve the daytime densities to support main street retail lead to very large scale architecture. The desire to hold scale along the street at five stories or less, promoted a “wedding cake” massing with towers pushed to the middle of blocks, and disconnected the towers from the street. Main Street was East Montgomery Avenue and used the historic Red Brick Courthouse and Circuit Court as one anchor and Metro as another. These were not sustaining anchor uses that would promote continuous or extended hour activity.

In response to the 2001 Town Center Master Plan vision and the Town Square development, the proposed amendment to the Preliminary Development Plan focuses on Maryland Avenue as the new Main Street with residential as its primary populator. The proposed Project responds to the vision by being both a connection and anchor. It reinforces the primary connection to the Metro along Maryland Avenue for Rockville, and it forms a vibrant anchor as the Town Center’s entertainment venue with its street retail and relationship to the Regal Theater and Retail Pavilion. Instead of office, the plan incorporates residential condominiums to provide a community of owner stakeholders.

The proposed plan with its location adjacent to Metro reflects smart growth principles and retains a substantial portion of the original development plan density. However with the emphasis on a more fine grained main street scale, the density in the proposed plan is expressed in smaller residential floor plates, varying heights along each frontage and the placement of slender towers on a north-south axis to Town Square with the greatest height along the eastern portion of the block nearest other high rise development.

Maryland Avenue is respected as the City’s main street and a mid-rise scale is maintained along this street edge as well as along East Montgomery Avenue, the existing entertainment street. The tallest residential towers are placed on a North / South axis perpendicular to Town Square significantly reducing the impact on scale and shadow casting from that previously approved for the office development on Block 3.

The Town Center Master Plan and Design Guidelines prioritize bringing different uses to the street on different facades. The proposed plan accomplishes this with varying facades, heights, and unit types such as lofts, town homes, flats and penthouses. The tops of the low, mid and high-rise elements of the Project will create a diverse and interesting skyline.

Retail at the street level will encourage self-expression and promote street display and restaurant dining. Development access and circulation is organized to promote the success of the retail leaving few gaps in the street façade and positioning retail at prime street locations and gateway corners. The circulation directs the visitor arriving via automobile to drive in front of the primary retail and enter the parking from the East Montgomery Avenue/ Renaissance Street corner. Visitors will exit the parking structures onto the street as a pedestrian at the same point where they drive into the development giving the patron a clear orientation.

Architecture and Urban Design

A set of architectural concept plans, section, elevations, and perspectives of the East Montgomery Avenue, Maryland Avenue, Monroe Street and Middle Lane views have been provided for *illustrative purposes* in Section 3 (Cooper Carry Architects Plans). Final plans will be submitted at Use Permit.

Gateway Corners

The corner is a strategic element in cities and in the development of commercial real estate. With the reintroduction of the street grid the opportunity for corner development is multiplied. The master plan reinforces the importance of "Gateway Corners" in Town Center. The architectural icon at each corner of the block brings identity to the street and the theme for the block and its uses.

The amended Preliminary Development Plan continues to incorporate "Gateway Corners" and strategically places destination street retail uses and residential entrance lobbies there. Heights are lowered to 55 feet at the corner of Maryland Avenue and Middle Lane, Maryland Avenue and East Montgomery Avenue and East Montgomery Avenue at Renaissance Street. The height of these tower corners gives a comfortable pedestrian scale for the corners, and the mid-rise height allows the pedestrian to enjoy the architecture from across and/or down the street.

Setbacks, Massing and Fenestration

The establishment of the scaled street wall is a key urban design principle. The scaled street wall is the first 55 feet of a structure that a pedestrian can see, feel, touch and experience. Adding "scale" to a street wall best occurs at several points in the height in the first five floors of an urban structure. First, it is important the retail street level windows be tall and open for merchandizing. The retail façade should come to the face of the structure and not be recessed into the first floor. A generous, but not too broad sidewalk is important to encourage sidewalk gathering, shopping and dining. At the top of the second story, or at approximately thirty-five feet, a projecting cornice line will define the building's street or pedestrian scale. This cornice architecturally defines the street use from the use of the building above. The street level to the fifth level establishes the street wall and may be very articulated with setbacks and punched openings.

The amended Preliminary Development Plan establishes a five to six story street wall base depending on street grade as it rises and falls from Middle Lane to Maryland Avenue and around the block of East Montgomery Avenue. This cornice level produces a strong horizontal line which connects and emphasizes the articulation at the "Corner Gateways". The residential towers above the base will vary in height to complement the neighborhood and be reflective of a town center built over time.

Conformance with Master Plan:

Compliance with the Town Center Design Guidelines

The Rockville Town Center Master Plan adopted October 2001 set forth a number of Urban Design Guidelines. The proposed Preliminary Development Plan embraces, conforms and addresses these guidelines:

1. *Celebrate Maryland Avenue as the Town Center centerpiece through the use of outstanding and creative design solutions.*

This proposed development provides retail/commercial along Maryland Avenue and a continuous

street connection from South to North. Town Square, with its village green, “festival street” and Library anchor focus serves as the primary civic gathering space. This Project will enhance an entertainment district supporting the Regal Theater anchor with restaurants and a connection for visitors arriving in the City via Metro. With the implementation of this Project, Maryland Avenue will be a continuous celebration connecting the two vibrant anchor districts.

2. *Pedestrian Link:* The proposed development plan is consistent with the Town Center vision for vibrant streetscapes with minimum fifteen-foot sidewalks with street trees and on-street parking. The plan creates a concept for continuous street retail and flexible development organization that will allow for street closings for special events and street festivals. The plan creates a stronger and more exciting pedestrian connection to the Metro station.
3. *Bring buildings up to the street edge and reinforce a sense of urban enclosure by placing parking behind buildings.*

The development plan provides structured parking wrapped with residential and commercial development at street level.

4. *Encourage high quality materials in all aspects of site and building development.*

This Plan provides charming brick and glass buildings with interesting gateway corners, detailed street level building base, and varied rooflines.

5. *Incorporate open space (landscaping or plazas) into private building plans.*

This Plan provides continuous urban open space that allows for retail merchandising, sidewalk restaurant dining, and public gathering space. Renaissance Street which halves the large block is lined with residential and is landscaped to create private spaces for home owners and strolling space for the public. It is a substantial oasis that is not found in most urban locations. Secure, landscaped amenity spaces are provided for the top level of parking structures making them pleasing plains to look down upon from adjacent towers.

6. *Create streetscapes and public spaces that feel comfortable to pedestrians.*

Priority is given to prime gathering spaces adjacent to anchor retail locations and primary connection routes. Renaissance Street is one such location across from the Regal Theater entrance. The urban plaza area serves as a primary arrival and departure point for the district encouraging both the resident and visitor to interact with one another. The wide sidewalks along East Montgomery Avenue and East Montgomery Avenue itself are designed with materials and forms that promote a connection and walking from retail street front to retail street front making it one large public gathering space.

7. *Utilize traditional storefront design techniques wherever possible; maximize opportunities for street activity by incorporating open and inviting ground floors.*

The retail façade, with its twenty-foot floor-to-floor height, promotes tenant individualization. The street façade minimizes building elements and opens large amounts of street frontage to the tenant for display and merchandizing. The development will provide design guidelines that emphasize shop entrances, signage, display and image.

Open Space, Gathering Places, and Landscape Design:

- The overall sidewalk/tree lawn width is a minimum of fifteen feet following the city design guidelines.
- The East Montgomery Avenue sidewalk dimensions range from fifteen to twenty one feet from face of building to face of curb.
- The pedestrian peninsulas framing the entrance to Renaissance Street from East Montgomery Avenue are each approximately twenty-24 feet wide (face of building to Renaissance Street back of curb) by ninety-eight feet (back of curb East Montgomery Avenue to face of building at parking garage entrance), and the combined area of over 4500 square feet provides a substantial space for pedestrian passage, art, and organized public gathering for dining, small performances and display events. These spaces combined with East Montgomery Avenue, Renaissance Street, and located right at the apex of the Regal Cinema create an exciting opportunity for urban vitality.
- The residential building includes an open plaza on an upper floor providing private recreational, social, and park space for the owners and residents. Final details for the resident's plaza will be presented at Use Permit.
- Renaissance Street is proposed to serve in part for vehicular ingress and egress, but in larger part as an urban open space conducive to gatherings, events, and pedestrian passage. Renaissance Street would be designed to permit vehicular passage to and from Middle Lane on the infrequent occasions when East Montgomery Avenue is closed for City special events such as Hometown Holidays.

Shadow Study – Comparison of Approved Office Building to Proposed Residential Building:

A copy of the shadow study from the original 1994 PDP for the office building is attached as Exhibit 4-B. Attention and effort has been made by the Applicant to reduce the shadow from the previously approved office development onto Block 5 of the more recently approved Town Square development.

The Applicant has completed a shadow study for the proposed amendment to the PDP. The proposed building significantly reduces the shadow on the more recently approved residential structure between 10 am and 2 pm on December 21st from the shadow of the approved office building. A copy of the shadow study is provided in Section 4 as Exhibit 4-A. A copy of the shadow study of the approved office building is also shown in Section 4 as Exhibit 4-B.

Transportation:

The Applicant has completed a Traffic Statement prepared by Kimley-Horn. A copy of Applicant's Traffic Statement is attached as in Section 5 as Exhibit 5-A.

The proposed Amendment to the PDP has a significant positive impact on the traffic analysis for the area. The PDP's trips are included in background traffic for the area since PDP approval in 1994. The Project, by converting from office to residential, results in a significant reduction in the a.m. and p.m. peak hour trips. The proposed residential building reduces the trip generation from the Project from 258 a.m. peak hour trips under the prior approved plan to 131 a.m. peak hour trips and from 398 p.m. peak hour trips

under the prior approved plan to 166 p.m. peak hour trips. Further, the amendment will improve the projected southbound traffic flow on Route 355 by reducing northbound left turn movements from Route 355 onto Middle Lane in the a.m. peak hour.

Renaissance Street Right of Way: Abandonment / Public Use Easement

Renaissance Street is shown on the record plat for Parcel 2-J with a note indicating that Renaissance Street will be a surface easement. The PDP has always contemplated that a structured parking garage would be built below Renaissance Street. Applicant is agreeable if the City would like to abandon the Renaissance Street public use easement for a public street and suggests that a public use easement for pedestrian passage may be more appropriate based on the Project proposed in this Amendment.

While this Project proposes a more pedestrian oriented space for Renaissance Street right of way, it must be recognized that the City already holds a public use easement for East Montgomery Avenue which permits the City to temporarily close East Montgomery Avenue for special events such as Home Town Holidays or the farmers market. Therefore, Renaissance Street must be designed and approved in such a manner that will allow vehicular passage from Middle Lane to the parking garage entrances during those infrequent periods when the City elects to close East Montgomery Avenue for a special event.

Parking

Applicant will comply with the City Code for required parking and the final number of parking spaces will be determined at Use Permit based on the final schedule of dwelling unit sizes and retail uses. Based on the assumptions set forth below as to dwelling unit types and restaurant versus retail the Project will include a minimum of 722 parking spaces. The Project has a waiver for a 40% reduction in non-residential parking approved under the original PDP. Parking calculations for the Project and for the PDP are shown below.

Parking for the Retail Pavilion under the PDP and Use Permit 96-0565 is provided in part on Parcel 2-J. There are currently 203 surface parking spaces on Parcel 2-J utilized as part of the PDP calculation of parking at different times for all the uses in the PDP, including the Retail Pavilion. Applicant will be reconstructing the 203 parking spaces in the new Project structured parking facility. Applicant also intends to attempt to include additional parking spaces for the patrons of the buildings in the PDP, including the Retail Pavilion, as can reasonably and physically be accomplished within the approved Project, up to 280 (203 replacement + 77 additional) spaces included in the Project over that required for the Project dwelling units and on-site retail space.

The Project after application of the waiver and the shared parking calculation requires 476 parking spaces for the on-site residential, restaurant and retail. With replacement of the 203 parking spaces from the Parcel 2-J surface parking lot, the total Project parking requirement is 679 parking spaces. The Applicant intends to include a minimum of 722 parking spaces. At Use Permit, Applicant may have final parking numbers greater than 722 as it intends to maximize the parking within the structure approved to reach its goals discussed above and to maximize marketing advantage for the residential condominium project.

Parking will be provided in a structured parking facility wholly internal to the Project with two below-grade levels, one on-grade level and multiple above ground levels. Vehicular access to and from the parking structure will be at two points. The retail patrons of the Project, as well as patrons of the Retail Pavilion, will access the garage from the East Montgomery Avenue/ Renaissance Street intersection,

while the residential residents will access above grade parking from Maryland Avenue. For residential residents, convenient and in certain cases, direct, access to allocated parking will be available from dwelling units located immediately adjacent to the parking structure.

Loading docks and service space is provided for the condominium and retail components of the development along Middle Lane.

The following pages are tables of calculation of the required parking for the Project: Table 1.1 Project Parking prior to application of time of day; and Table 1.2 PDP Parking under the time of day shared parking calculation for all five blocks of the PDP. This Amendment will result in a surplus of parking within the PDP.

Parking Summary:

Total Required PDP (Blocks 1-5) Spaces:	1171 spaces
Parking Provided in PDP:	
Block 1 / Parcel 2-F (USE 84-300D)	435 spaces
Block 2/ Parcel 2-K (USE 96-0565)	158 spaces
Block 3/ Parcel 2-J (USE 96-0565/PDP94-001E)	722 spaces
Block 4/ Parcel 2-H (USE 94-0531)	39 spaces
Block 5/ Parcel 2-G (USE 96-0565)	<u>0 spaces</u>
Total PDP Spaces Provided:	1354 spaces
Surplus PDP Spaces:	183 spaces

Table 1.1 Required Parking for Project and PDP Uses before Time of Day Calculation

Table 1.1 Follows

Use Type	# of Units or SF	Parking Requirement	Req'd # of Spaces	Req'd # of Spaces w/ 40% Reduction
Residential Uses	Assumptions			
Town-lofts (2BR+)	7 Units	1.50/Unit	11	11
Condominiums (1BR)	133 Units	1.25/Unit	167	167
Condominiums (2BR+)	159 Units	1.50/Unit	239	239
Total Project Residential Parking:		299 Units	417	417

Commercial Uses				
<u>Block 3/ Parcel 2-J</u>	Assumptions			
Retail Sales Establishment	8,790 sf	1 per 200 sf	44	27
Restaurant Space - General:	8,550 sf patron area 4275	1 per 50 sf	86	52
Restaurant Space - Employees:	28	1 per 2 emp	14	8
Restaurant Space - Outdoor:	2000 sf	1 per 80 sf	25	15
Total Project Commercial Parking			169	102
Surplus PDP Parking (Replacement of Existing)			203	203
Total Project Parking Required plus replacement PDP Parking:			789	722

Commercial Uses Blocks 1 & 5	SF	Parking Requirement	# of Rgd Spaces	# w/ 40% red
<u>Block 1/ Parcel 2-F</u>				
Office	125,275 sf	1 per 300 sf	418	251
Fitness Center/ Club:	12,679 sf	1 per 200 sf	64	38
Deli Restaurant - Transit:	1720 sf	1 per 5 emp	1	1
51 Monroe St.:	138	138	138	138
<u>Block 5/ Parcel 2-G</u>				
Theatre	2495 seats	1 per 4 seats	624	374
Theatre employees	30 emp	1 per 2 emp	15	9
Office	25,844 sf	1 per 300 sf	87	52
Retail	700 sf	1 per 200 sf	4	3
Restaurant	6435 patron area	1 per 50 sf patron	129	78
Restaurant employees	20	1 per 2 emp	10	6
Restaurant Outdoor seating	2400 sf	1 per 80 sf	30	18
Total			1520	968

Table 1.2 Time of Day Calculation

	Weekday		Weekend		Nighttime
	Daytime 6am -- 6pm	Evening 6pm -- midnight	Daytime 6am -- 6pm	Evening 6pm -- midnight	Midnight -- 6 a.m.
Office/industrial	100%	10%	10%	5%	5%
General retail	50%	90%	100%	70%	5%
Hotel, motel, inn	70%	100%	70%	100%	70%
Restaurant	50%	100%	100%	100%	10%
Indoor or legitimate, theater, commercial recreational establishment	40%	100%	80%	100%	10%
Clubs	50%	100%	100%	100%	10%
Residential	60%	90%	80%	90%	100%
Institutional and public uses	50%	100%	100%	30%	5%
All other uses	100%	100%	100%	100%	100%

Table 1.2 Time of Day Calculation All PDP Uses

Use	Weekday	Weekday	Weekend	Weekend	Nighttime
	Daytime	Evening	Daytime	Evening	
Office	303	31	31	16	16
Fitness Center	19	38	38	38	4
Retail	15	27	30	21	2
Restaurants	89	177	177	177	18
Theatre	153	383	307	383	38
51 Monroe St.	138	138	138	138	138
Deli	1	1	1	1	0
Residential	251	376	334	376	417
Total	969	1171	1056	1150	633

Highest Parking Required at Weekday Evening totaling 1171 spaces within the PDP.

Applicant recognizes that during construction on Parcel 2-J, a parking location program will have to be implemented and arrangements made so that sufficient parking required by the PDP and Use Permit US96-0565 are in place during construction on Parcel 2-J. During construction on Parcel 2-J, the currently existing uses within the PDP (on Blocks 1 and 5 plus 51 Monroe Street requirement) will require per code 696 parking spaces at the peak weekday evening period and the PDP parking facilities will provide 632 parking spaces. It is important to note as a practical matter that notwithstanding the calculation of peak parking demand above, 138 spaces of the 696 space peak parking demand in the evening are the 138 spaces set aside in Block 1 for the office uses in 51 Monroe Street. These 138 spaces are not reduced by time of day calculations like other office uses to 10% after normal business hours. As a practicality, 90% of those 138 office parking spaces are available during the weekday evening peak.

Sufficient parking spaces (756 spaces which includes 90% of the 138 spaces) will be physically available within the parking facilities in the PDP area for the demand (696 spaces) during the construction period on Parcel 2-J. More complete details will be provided at Use Permit.

Storm Water Management:

The Applicant submitted and received approval of a storm water concept plan for the Property. Waivers were approved for quantity and quality control per WVR95-2001 and WVR95-2002 and the waiver fees for Parcel 2-J, Parcel 2-K and Parcel 2-G were paid in full. A quality control structure was constructed by RCI and is in service north of the Parcel 2-J property line. A copy of the approval for the storm water concept plan and waiver is provided in Section 6.

Adequate Utilities:

Public Water, Sewer, Electric, and Gas are available on the Property or in the affronting streets. Storm water capacity was upgraded in Monroe Street as part of the original PDP and Use Permit construction.

NRI/FSD:

The Applicant submitted and received approval of a Natural Resource Inventory and Forest Stand Delineation Plan for the Property. Offsite afforestation was completed for Parcel 2-J.

Contribution to Publicly Accessible Art:

Applicant is supportive of the incorporation of art, art space or art infrastructure into its project. Applicant is exploring the many opportunities and venues for incorporation of art in the Project. The draft plan for Arts and Arts Related Activities for Rockville Town Center. Details will be provided at Use Permit.

ATTACHMENT "B"

April 28, 1994

Mr. Mark Troen, Vice President
Rockville Center, Incorporated
250 Hungerford Drive, Suite 195
Rockville, MD 20850

Dear Mr. Troen:

Re: Preliminary Development Plan Application PDP94-0001- Rockville Center, Incorporated

At its meeting of April 27, 1994, the Rockville Planning Commission reviewed and conditionally approved the above referenced application for redevelopment of the former Rockville Mall area. Approval includes the following elements:

- (1) Development parcels, road locations, and road right-of-way widths as shown on the "Concept Preliminary Plan" dated April 8, 1994 in the application file;
- (2) Building uses and sizes as follows:

BLOCK	USE	GROSS FLOOR AREA (SQ.FT.)
1	Office	459,675
	Retail	<u>34,150</u>
		493,825
2	Office	480,375
	Retail	<u>27,525</u>
		507,900
3	Office	334,575
	Retail	27,750
	Theater	<u>43,000</u>
		405,325
4	Residential	min. 117 units
	Retail	<u>11,260</u>
		11,260
5	Retail	48,312
TOTAL FOR PLAN		<u>1,466,622 (sq. ft.)</u>

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- NOTES:
1. The gross floor area in each block may vary by ± 15 percent, but shall not exceed the total for plan without Planning Commission of an amendment. Gross floor area shall be as defined in Section 25-1 of the Zoning Ordinance.
 2. The retail square footage includes 50,000 square feet of restaurant use.
 3. The number of residential units may vary depending on the actual unit mix, but shall not be less than 117 units.

- (3) Building locations, heights, massing, and setbacks as shown on Drawings #1 through #6 contained in the application file;
- (4) Typical street sections and paving plan as described in the supplemental submission in the application file. (NOTE: Approval of the street sections is contingent upon the applicant applying for and receiving approval of a waiver of the normal business district road width requirement in accordance with Chapter 21 of the Rockville Code (Streets and Public Improvements); and
- (5) A parking requirement reduction of 30 percent from the total normal requirements of all nonresidential uses contained in the preliminary plan.

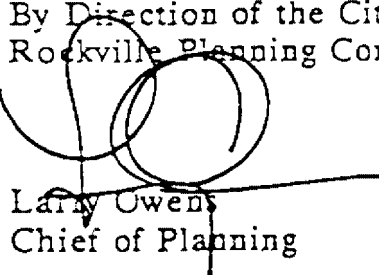
Planning Commission approval of the preliminary development plan is contingent upon and subject to the following:

- (1) The recommendations of the Transportation Planner (attached) for traffic impact mitigation measures and transportation demand management program enhancements shall be implemented by RCI. It is recognized that some of the physical traffic impact mitigation improvements recommended may be made by other developers and/or funded by public sector financing and contributions;

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- (2) An additional ten percent parking requirement reduction must be applied for and approved by the Mayor and Council;
- (3) All parking requirements of the Zoning Ordinance (currently or as may be amended) must be satisfied in order to obtain approval of Use Permit Applications for all phases of development;
- (4) A pedestrian access and circulation plan shall be prepared and submitted to the City for approval to provide for continued accessibility by all persons to Metro and other Town Center locations during all demolition and construction phases;
- (5) Use Permit Application approval for Block 5 are contingent on abandonment of a portion of Truck Street right-of-way following normal street abandonment application procedures; and
- (6) A concept plan for signage along the Metro Plaza Promenade and all arcades shall be submitted to the Sign Review Board for review and approval prior to installation of any permanent building signs.

By Direction of the City of
Rockville Planning Commission



Larry Owens
Chief of Planning

LO/dep
Attachment

cc: Nancy P. Regelin, Shulman, Rogers, Gandal, Pardy, and Ecker, P.A.
William Hellmuth, Hellmuth, Obata, and Kassabaum
Bruce Romer, City Manager
Neal Herst, Director of Community Development
Paul Glasgow, City Attorney
Gerry Morningstar, Deputy Director of Public Works
Linda Mac Dermid, Chief of Inspection Services

April 28, 1994

REQUIRED TRAFFIC IMPACT MITIGATION
MEASURES AND TRANSPORTATION DEMAND
MANAGEMENT PROGRAM ELEMENTS

1. MD 355 and Beall Ave.
 - a. Applicant to provide dual left turn lanes and separate thru/right turn lane on eastbound Beall Avenue.
 - b. Applicant to restripe westbound approach opposite Beall Avenue to provide left turn and combined through/right lane.
 - c. Applicant to reconstruct traffic signal.

This work is to be completed prior to occupancy of the second office building.

2. MD 355 and Middle Lane
 - a. Applicant to eliminate pedestrian crossing on south leg of intersection and construct physical barrier.
 - b. Applicant to provide right turn channelization land on southbound MD 355.
 - c. Applicant to provide northbound right turn land on MD 355.

Conditions a, b, and c to be completed prior to occupancy of the first office building.

- d. Applicant to provide northbound double left turn lanes on MD 355.
- e. Applicant to provide separate left turn lane, through lane, and through /right lane on westbound approach (Park Road) of intersection.

April 28, 1994

- f. Applicant to provide for two through lanes on Middle Lane for westbound traffic departing MD 355/Middle Lane/Park Road intersection.
- g. Applicant to provide for signal modification.

Conditions d, e, f, and g to be completed prior to occupancy of third (final) office building.

3. Maryland Ave. Extended

- a. Applicant to extend Maryland Avenue from Middle Lane to Beall Avenue.

This condition is to be met prior to occupancy of second office building.

4. Jefferson St. and MD Ave.

- a. Applicant to widen southbound Maryland Ave. approach to create separate left turn lane and combined through/right turn lane.
- b. Applicant to extend Maryland Avenue from Jefferson Street to Middle Lane.
- c. Applicant to provide for signal modification.

These conditions are to be completed prior to occupancy of initial retail building.

5. Jefferson St. and Monroe St.

- a. Applicant to provide for signal modification. This is to be completed prior to occupancy of initial building.

6. MD 28 and Falls Road

- b. Applicant to provide for traffic signal reconstruction of a roundabout after feasibility study.

April 28, 1994

This condition is to be met prior to occupancy of first office building.

7. Park Rd./S. Stonestreet Ave. a. Applicant to provide funds for CIP Project 420-850-1A72. (Park Road/Stonestreet Avenue Traffic Control). See description of project in FY 94 CIP.

This condition is to be met prior to occupancy of second office building.

8. West End Traffic a. Applicant to provide funds to mitigate Town Center traffic through the West End neighborhood.

This condition is to be met by posting up to \$80,000 prior to occupancy of the first office building.

9. MD 28/Veirs Mill Rd.
MD 355/First St./
Wootton Parkway a. Developer to provide funds for grade separation feasibility studies.

These studies should begin prior to occupancy of second office building.

10. Transportation Demand Management Program (TDM)
- a. Applicant will conduct employee surveys to assess the effectiveness of the TDM program. Affidavit certifying correctness of information will be required.
 - b. Applicant will provide annual report on effectiveness of TDM program.
 - c. City may require periodic audits to be paid for by applicant.
 - d. Applicant will post a security instrument to cover cost of trips being reduced.

April 28, 1994

- e. Applicant will appoint a transportation coordinator to administer the program.
- f. Applicant will sign a written agreement to meet the trip generation rates described below.
- g. Applicant will pay a \$750,000 TDM fee or post a security instrument (bond) to cover the TDM's program cost of maintaining assumed trip generation rates.
- h. Program elements may include transit fare subsidies, vanpool subsidies, appropriate parking strategies to reduce signal occupant vehicles and encourage carpools and vanpools, a ride-sharing program, a guaranteed ride home program, flex-time, and any other techniques necessary to maintain or lower assumed trip generation rates.
- i. Applicant's TDM program will achieve or lower the following AM and PM peak hour vehicle trips and assumed trip generation rates for each office building on adjacent streets:

	AM PEAK HOUR VEHICLE TRIPS			PM PEAK HOUR VEHICLE TRIPS		
	In	Out	Total	In	Out	Total
1st Office Bldg.	204	30	234	54	241	295
2nd Office Bldg.	293	43	336	77	346	423
3rd Office Bldg.	281	42	323	73	331	404
Total Vehicle Trips	778	115	893	204	918	1122
TDM Trip Rate	.61	.09		.16	.72	

The term of the TDM agreement is to be determined after further discussion with staff.





September 10, 2002

ATTACHMENT "C"

City of Rockville
Maryland Avenue
Rockville, Maryland
20850-2864
www.ci.rockville.md.us

Nancy P. Regelin, Esquire
Shulman, Rogers, Gandal, Pordy & Ecker, P.A.
11921 Rockville Pike, Third Floor
Rockville, Maryland 20852

Community Planning and
Development Services
240-814-8200
TTY 240-814-8187
FAX 240-814-8210

Re: Use Permit Amendment Application USA1996-0565B and
Preliminary Development Plan Amendment Application PDP94-001D,
Pavilion Partners, Inc.

Inspection Services
240-814-8240

Dear Ms. Regelin:

Planning and Zoning Division
240-814-8280

At its September 4, 2002 meetings, the City of Rockville Planning Commission granted approval of the referenced applications, subject to certain conditions described below. This constitutes Preliminary Development Plan and Use Permit Amendment approvals to allow a change-in-use of 13,500 square feet of space from health and fitness establishment to office use on the second floor of the east wing of the Rockville Center Retail Pavilion at 199 East Montgomery Avenue. The proposal also includes construction of a 1,200 square feet breezeway to connect the office spaces at either end of the second story level. The health and fitness establishment (retail) floor area is to be reallocated among the other blocks of the development. The allocation of the land uses outlined in the Preliminary Development Plan (PDP) approval is modified as follows:

Landlord Tenant
240-814-8219

BLOCK	LAND USES	APPROVED GROSS FLOOR AREA	PROPOSED GROSS FLOOR AREA
1	Office	394,261 SF	394,261 SF
	Retail	27,500 SF	27,500 SF
	Retail (Restaurant)	9,200 SF	9,200 SF
	Subtotal	430,961 SF	430,961 SF
2	Office	480,375 SF	480,375 SF
	Retail	14,025 SF	18,525 SF
	Retail (Restaurant)	13,500 SF	13,500 SF
	Subtotal	507,900 SF	507,900 SF
3	Office	377,575 SF	362,875 SF
	Retail	27,750 SF	36,750 SF
	Subtotal	405,325 SF	405,325 SF
4	Residential	117 DU (min)	117 DU (min)
	Retail	11,260 SF	11,260 SF
5	Retail (Restaurant)	21,106 SF	21,106 SF
	Office	9,200 SF	23,900 SF
	Retail (Fitness)	13,500 SF	0 SF
	Theater	67,370 SF	67,370 SF
	Office TOTAL	1,261,411 SF	1,261,411 SF
	Retail TOTAL	137,841 SF	137,841 SF
	Theater TOTAL	67,370 SF	67,370 SF
	Residential TOTAL	117 DU	117 DU

MAYOR
Larry Giemmo

COUNCIL
Robert E. Dorsey
John F. Hall, Jr.
Susan R. Hoffmann
Anne M. Robbins

CITY MANAGER
W. Mark Pentz

CITY CLERK
Claire F. Funkhouser

CITY ATTORNEY
Paul T. Glasgow

Notes:


1. Retail space on blocks 1, 2 and 3 can be used for restaurant space.
2. The minimum amount of restaurant space on Block 2 is 13,500 square feet, while the minimum amount of restaurant space on Block 1 is 9,200 square feet.
3. Restaurant space in Block 3 will offset the requirement for restaurant space, first in Block 1 and then in Block 2, once the minimum requirement for Block 1 has been met.
4. Restaurant space in Block 2 above 13,500 square feet will offset the minimum requirement for Block 1.
5. The total amount of restaurant space permitted within Rockville Center must equal 43,806 square feet on Blocks 1, 2, 3, and 5, without an amendment to the Preliminary Development Plan.

Approval of Use Permit Amendment application USA1996-0565B for the retail pavilion is subject to the following conditions:

1. Submission, for the approval of the Chief of Planning, of eleven (11) copies of the site plan, revised according to Planning Commission Exhibit A, and illustrating that the following site development issues and concerns have been satisfactorily addressed:
 - a) Changes to the required parking tabulation, as indicated.
2. Submission, for the approval of the Chief of Planning, of a revised landscape plan detailing the type and location of all planters and plantings along East Montgomery Avenue. At a minimum, the planters shall be located by approximating the required street tree spacing (no greater than 40 feet on center).
3. All construction must meet the requirements of the City's construction codes, the Fire and Life Safety Codes, Maryland Building Code for the Handicapped and Federal ADA requirements.
4. That any previous conditions of approval for Preliminary Development Plan PDP94-0001 and Use Permit USE96-0565, as amended, remain in effect, except as superseded above.

Section 25-193(d) of the Zoning Ordinance requires that construction or operation must commence within two (2) years of the date of this decision or application approval shall expire. If the applicant can show just cause, a maximum of two (2) time extensions may be granted by the Planning Commission, each not to exceed one year. However, time extensions are not automatically approved, and sufficient detail and justification will be required in order for the Planning Commission to consider granting an extension.

By Direction of the City of Rockville
Planning Commission


Robert J. Spalding, AICP
Chief of Planning

RJS/rjw

cc: Planning Commission
Sondra Block, Assistant City Attorney
Vytas Dulys, Plans Examiner
Paul Glasgow, City Attorney
Howard Glatzer, Pavilion Partners, Inc.
Cliff Grimes, Rockville, Center, Inc.
Linda MacDermid, Chief of Inspection Services
Susan Nolde, City Forester
Michael Plitt, Macris, Hendricks and Glascock, P.A.
Susan Straus, Chief Engineer/Environment
Jim Wasilak, Chief of Long Range Planning
Mark Wessel, Civil Engineer
Application File

Note: A building permit may be issued only when the conditions of approval have been met and a copy of the following acknowledgment, signed and executed by the applicant, has been returned to the Planning Division office. Be advised that Commission approval does not constitute approval by any department or agency having jurisdiction over this development project.

I ACKNOWLEDGE RECEIPT OF USE PERMIT AMENDMENT USA1996-0565B AND AGREE TO FULLY COMPLY WITH CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.



(Applicant's Signature)

Howard Glatzer

(Applicant's Printed Name)

SHULMAN ROGERS GANDAL PORDY & ECKER, P.A.

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Donald R. Rogers
Karl L. Ecker*
David A. Pordy*
David D. Freisheit
Martin P. Schaffer
Christopher C. Roberts
Jeffrey A. Shane
Edward M. Hanson, Jr.
David M. Kochanski
James M. Kefauver
Robert B. Canter
Daniel S. Krakower
Kevin P. Kennedy
Alan B. Sternstein
Nancy P. Regelin

Samuel M. Spirito*
Martin Levine
Worthington H. Talcott, Jr.*
Fred S. Sommer
Morton A. Faller
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Michael V. Nakamura
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Glenn C. Etelson
Karl J. Proff, Jr.*
Timothy Dugan*
Kim Viti Fiorentino
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Rebecca Oshway
Ashley Joel Gardner
Michael J. Froehlich
William C. Davis, III
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Michael L. Kabik
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Maryland and D.C.
except as noted:
* Virginia also * D.C. only
* Maryland only * Retired

Writer's Direct Dial Number:

301-230-5224
nregelin@srgpe.com

August 3, 2004

Sondra Block, Esquire
City Attorneys Office
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

ATTACHMENT "D"

Re: The Fitzgerald -- Rockville Renaissance West LLC
PDP 94-001 Shadow Study Provision
Our File No. 109-673-002

Dear Sondra:

This Firm represents Rockville Renaissance West, LLC, Applicant for an amendment to change the permitted use from office to residential for the building in Block 3 of the existing Preliminary Development Plan PDP94-001. We have been asked to address the applicability of Section 25-682 (4) relating to shadow impact studies to an amendment to the existing Preliminary Development Plan PDP 94-001.

It is our position that Section 25-682(4) was satisfied at the time of the original PDP approval resulting in approval of a "building" with an allowable shadow impact. With an approved PDP, the Applicant could obtain a Use Permit for a building consistent with the PDP, meaning not exceeding the approved building sweater, the allowable shadow impact, the FAR, and/or heights. However, the intent of the PDP was to provide a "loose sweater" to allow for specific architectural detailing and massing within such loose sweater after further architectural and engineering design. In the Applicant's case, the requested amendment to the PDP is for a change in use for the approved building on Block 3. Shadow impact is not a function of use of space and therefore not applicable. Any concessions to the City the Applicant may make as to proposed reductions in the maximum heights of the approved PDP "building" that do not intensify or increase the previously approved allowable shadow impact are within the scope of the original approval, and therefore, no new test is required. The Applicant has prepared a shadow study comparing the approved building shadow impact with the proposed reduced height building shadow impact and has confirmed that there is actually a reduction in the building shadow impact under the proposed amendment. Under the PDP amendment, approval for a change in use is being sought and therefore Section 25-682(4) does not apply.

Sondra Block, Esquire

August 3, 2004

Page Two

Attached are two shadow studies comparing the approved PDP building shadow impact area with the proposed amended PDP building shadow impact area at 10 am and 2 pm on Dec 21st. The red outline is the shadow impact area for the approved PDP and the yellow outline is the shadow impact area for the proposed PDP amendment. The study also reflects the shadows for other existing and approved buildings within the study area.

As background, the subject site is governed by a general development agreement between the Mayor and Council known as the Transition and Development Agreement ("TDA") executed in 1994. Pursuant to the terms of the TDA, the City adopted the optional method provisions for the Town Center Planning Area and the first preliminary development plan was approved for a five block site: Preliminary Development Plan PDP94-001, as amended ("PDP"). In reliance on the TDA and PDP, the owners of the property subject to the PDP demolished the Rockville Mall, constructed new streets, sidewalks, storm drains, parks, and other public infrastructure, and constructed improvements on all the blocks in accordance with the common plan of development, including the 100,000 square foot Retail Pavilion on Block 5, the Metro Plaza Promenade on Block 1 and the Garden Parking Lots on Blocks 2, 3 and 4. The PDP set certain development standards for each of the five blocks in the plan, and through axionmetric drawings created a "loose sweater" detailing maximum heights and massing of approved buildings.

At the time of the approval of the PDP in 1994, the shadow study provision in Section 25-682 was in existence and applicable to preliminary development plan approval. Specifically it provides "*Developments shall be so planned in relation to one another that no building shall cast a shadow on existing or approved residential structures between 10:00 am and 2:00 pm on December 21...*" This test is only at the PDP stage; No similar provision is in the City Code for review at Use Permit. The approved buildings under the PDP shown in the axionmetrics were tested so that no building cast a shadow on existing or approved residential structures between 10 am and 2 pm on December 21. An allowable shadow impact for each block resulted and vested for each building.

At the time of the original PDP approval, a shadow study was completed notwithstanding the fact that no residential buildings existed or were then approved for north of the subject property. The shadows of the approved buildings in the PDP fell across the City owned Middle Lane parking lot and the Foulger Pratt property north of Middle Lane. However, the PDP shadow studies which were part of the original PDP application actually show the development north of Middle Lane contemplated under the 1993 Master Plan which included a proposed parking garage and a proposed residential building (on Lot 7 of the TDA). Even in the 1993 Master Plan, the City assumed future residential development north of Middle Lane within the shadow impact areas.

Sondra Block, Esquire
August 3, 2004
Page Three

Nine years later, the Mayor and Council approved the Town Square project, a mixed use development north of the subject site, within the known fall of shadows from the buildings to the south, including the existing Victoria, 11 North Washington Street, 51 Monroe Street, Foulger Pratt, and the Judicial Center, as well as the approved buildings under the PDP. With respect to the six buildings in Town Square itself, the buildings within Town Square cast shadows on the other buildings with residential uses within the Town Square project, but because all of those buildings are within a single preliminary development plan, the established course of conduct of the City is that no shadow study is required and the internal shadow impacts are not considered.

The purpose of both the TDA and the PDP was to provide certainty to both the City and the owner for the public and private development aspects of a long term, multi-phased, and complex development. It was expected that the demolition of the Rockville Mall and the construction of the first phase Retail Pavilion with the movie theatres would act as a catalyst in Town Center for development beyond the PDP. Therefore, the TDA and PDP provided certainty notwithstanding what redevelopment occurred beyond the PDP boundaries. Both the City and the owner performed contractual obligations by the deadlines under the TDA. Much of the public infrastructure was constructed and land dedications were completed in advance of the build-out of the private development.

The TDA remains in effect until June 21, 2021. Both the TDA and the PDP ordinance recognize that amendments will be required from time to time to respond to market demands and provide mechanisms for such amendments. It was never contemplated under the TDA or the original PDP that the owner would be divested of its rights under the TDA contract and the PDP approval through actions of the City in the development of its own Middle Lane lot as a mixed use development with residential uses. The 2001 Master Plan continued to show the buildings approved under the PDP on the same plans and illustrations as the future mixed use residential/retail development north of Middle Lane.

The history of the PDP has included a series of amendments to conform the PDP to changes in uses in the various blocks, most recently to changes in uses in the Lot 5 Retail Pavilion from retail and restaurant to office. (Some changes in use must be deemed minor as the City never modified the PDP itself when it caused the owner of Lot 4 to obtain a Use Permit changing the temporary use of Lot 4 from parking lot to bank office to permit the uses under the City's lease of Lot 4.) None of the approvals amending uses under the PDP included modifications to the approved buildings and shadow impact areas under the original PDP. Whether the amendment to the PDP is for an adjustment to the square footage of the amount of retail/restaurant use in an office building or a conversion of office to residential within a building, the requested change in use has not in the past and should not now, trigger a new shadow impact test.

SHULMAN
ROGERS
GANDAL
PORDY &
ECKER, P.A.

Sondra Block, Esquire

August 3, 2004

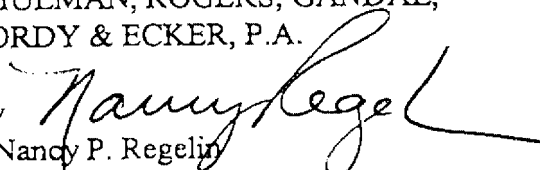
Page Four

It is the Applicant's position that Section 25-682(4) is not applicable to the Applicant's requested amendment. The Applicant has confirmed that any proffered concessions the City is desirous of accepting or conditioning approval on with regard to the building height has not increased or intensified the approved shadow impact area on any approved or existing residential structures on Dec 21 between 10 am and 2 pm.

If the City needs anything further on this issue, please do not hesitate to communicate with me.

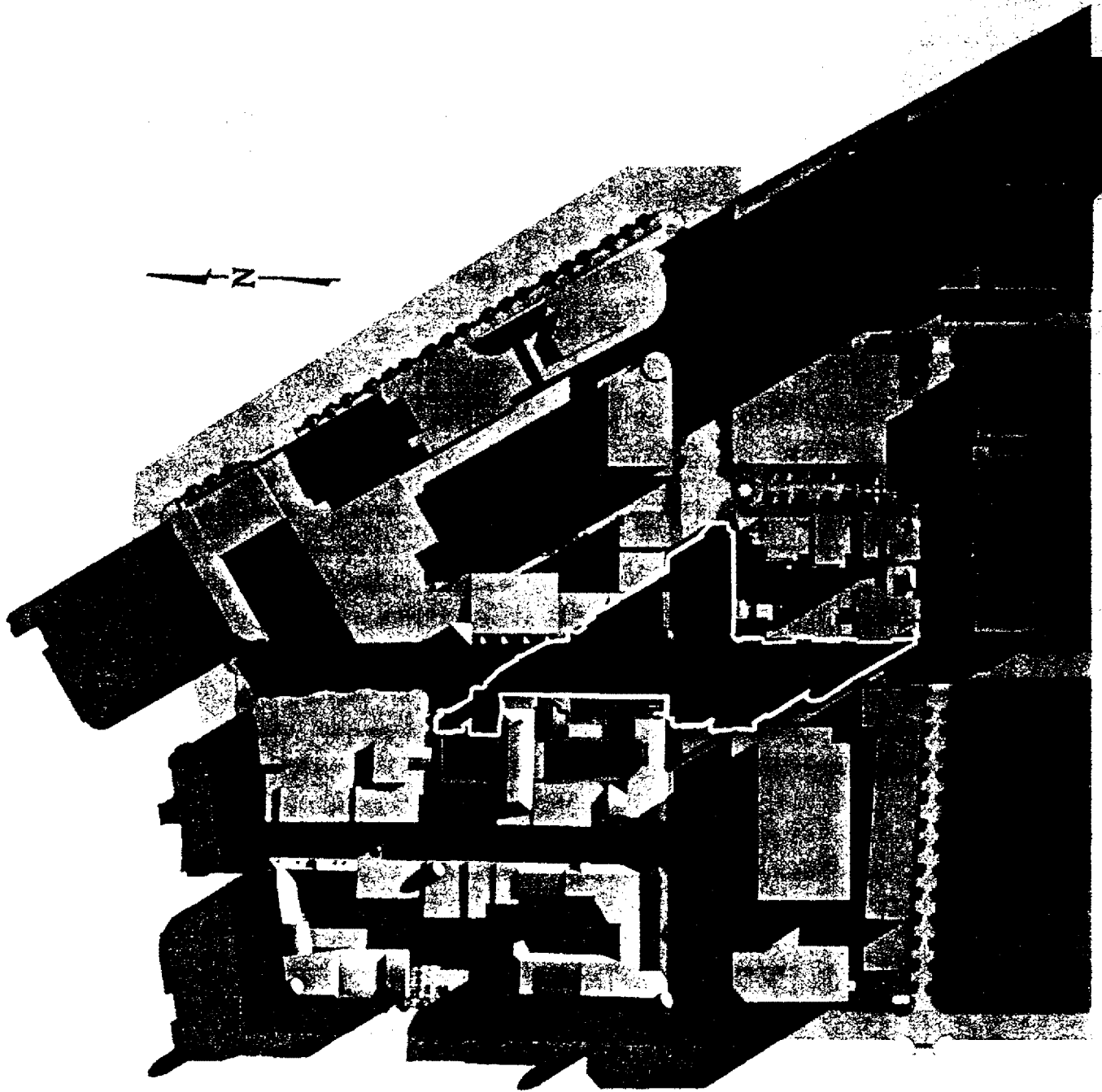
Very truly yours,
SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.

By


Nancy P. Regelin

NPR\47\BlackacreAkridge/AkridgeShadowmemo

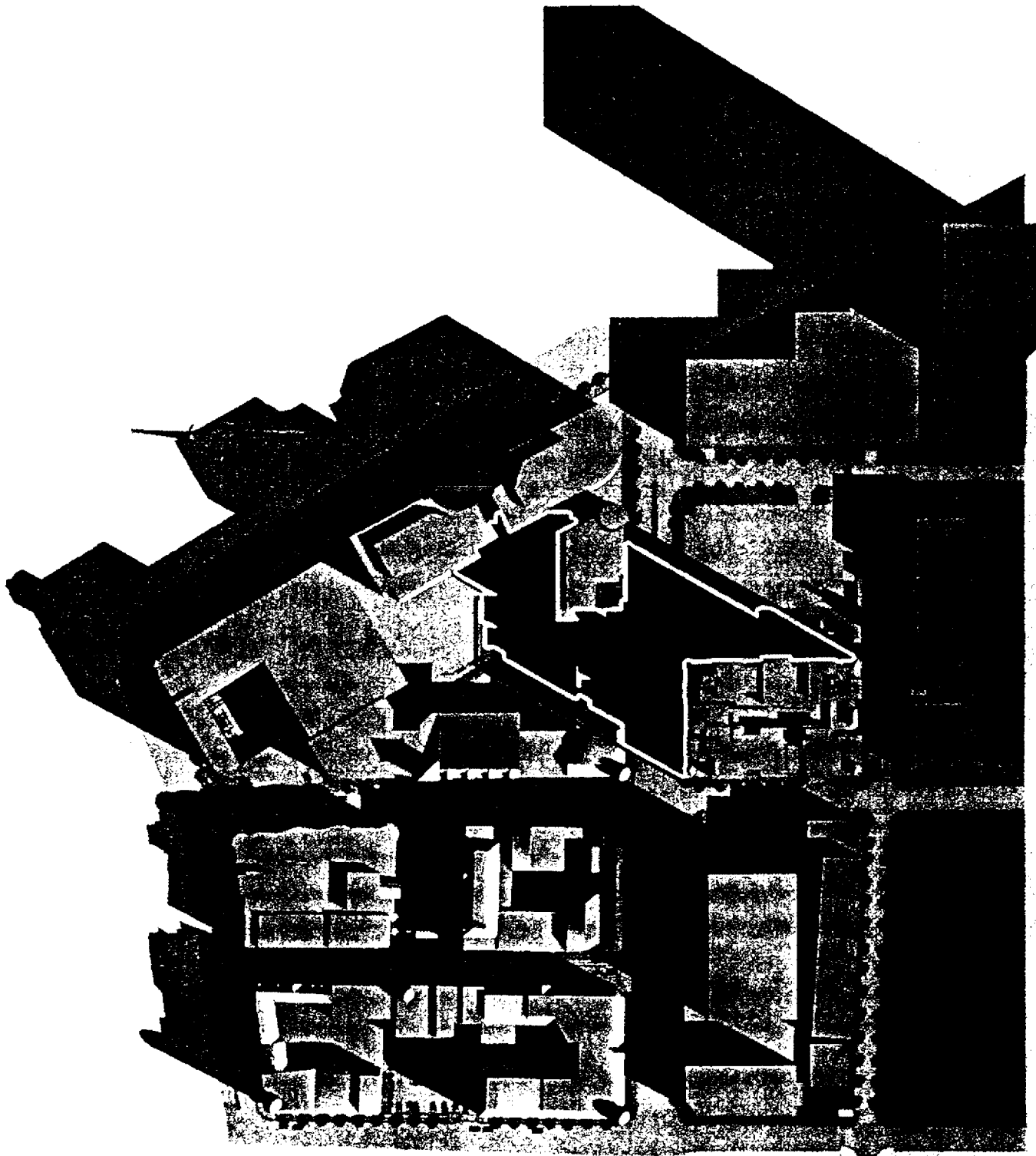
cc: Mr. Robert Spalding with attachments
Planning Staff
Mr. Joseph Svatos
Mr. Christopher Ciliberti



DEC 21 10 AM
APPROVED & PROPOSED

RED-APPROVED
YELLOW-PROPOSED

PDP94-001



55

RED-APPROVED
YELLOW-PROPOSED

DEC 21 2 PM
APPROVED & PROPOSED

PDP94-001



ATTACHMENT "E"

City of Rockville

MEMORANDUM

October 19, 2004

TO: Castor Chasten, Planner III

FROM: *SM* Sandra Marks, Civil Engineer I, Traffic & Transportation Division

VIA: Larry Marcus, Chief, Traffic & Transportation Division *lpm*
Mark Wessel, Civil Engineer III *MW*

SUBJECT: Traffic/Transportation Impact Review
Akridge: The Fitzgerald, PDP1994-0001E

This memorandum presents the Traffic and Transportation Division's recommendations on the subject development application, PDP1994-001E. These recommendations incorporate and address comments and concerns expressed by City staff, and the Applicant as part of the review process.

SITE ANALYSIS:

The proposed development program consists of approximately 285 hi-rise condominium residential units and 20,000 square feet of retail. This application is in place of 368,575 square feet of office and 36,750 square feet of retail already approved for the site. The proposed project is located on the block bounded by Renaissance Street to the east, East Middle Lane to the north, East Montgomery Avenue to the south and Maryland Avenue to the west.

There are four proposed access points to the site, one on East Middle Lane for loading, two on Maryland Avenue (one for loading and one garage access) and a garage access on on Renaissance Street. Separate parking garages will serve the retail and residential uses.

Roadway Network Analysis

The original PDP application (PDP1994-0001) analyzed the following 18 intersections:

1. MD 355/ North Washington Street
2. MD 355/ Beall Avenue
3. MD 355/ Middle Lane/Park Road
4. MD 355/ Monroe Street/ Church Street
5. MD 355/ MD 28
6. MD 355/ Richard Montgomery/Dodge
7. North Washington Street/ Beall Avenue
8. North Washington Street/ Middle Lane
9. North Washington Street/ West Montgomery Avenue
10. North Washington Street/ W. Jefferson Street

11. MD 28/Great Falls Road
12. East Jefferson/ Maryland Avenue
13. E. Jefferson/ Monroe Street
14. Maryland Avenue/Fleet Street
15. Monroe Street/ Rockville Metro Place
16. Park Road/North Stonestreet
17. Park Road/South Stonestreet
18. MD 586/ MD 911

These intersections were studied for three different scenarios (1) Existing Year 1994 Traffic Conditions; (2) Background Traffic Conditions; and (3) Total Future Traffic conditions.

The trip generation table below represents the difference in the two applications:

	AM			PM		
	In	Out	Total	In	Out	Total
Approved Plan (Office 368,575 Retail 36,750)						
	225	33	258	96	302	398
Proposed Plan (D.U. 285 Retail 20,000)						
	30	93	123	92	71	163
Difference	-195	60	-135	-4	-231	-235

The applicant submitted a revised traffic analysis for the change to the development program. With the change in development program, all of the intersections analyzed either remain at the same level of service or are improved.

The original conditions required of the Applicant were modified to reflect the reduction in trips generated and impacts. The Applicant will be required to contribute to the City's Transportation Improvement CIP to fund transportation improvements in the Town Center Planning area (including transportation improvements identified in the City's Town Center study) as well as contribute towards traffic calming in surrounding neighborhoods to mitigate neighborhood impacts.

Access and Circulation

A: Passenger Vehicle: There are four proposed access points to the site, one on East Middle Lane for loading, two on Maryland Avenue (one loading and one garage access) and one garage access point on Renaissance Street. Separate parking garages will serve the retail and residential uses.

Currently Renaissance Street is proposed to serve primarily as a pedestrian link with outdoor café seating, as well as serve as an access point to the parking garage. Staff is recommending that Renaissance Street be designed to accommodate through vehicular traffic for access to the parking garage when E. Montgomery Avenue is closed off for events, as well as to allow for the possible future use of the street for vehicular traffic.

B: Heavy Vehicle (Truck & Bus): Staff will be reviewing truck access and loading to the site. The Applicant has submitted a plan showing access to the loading dock off of E. Middle Lane and egress

onto Maryland Avenue. Staff will continue to work with the Applicant through the USE Permit process on the design of the loading access and circulation.

C: Pedestrian/bicycle access: Due to the proximity of the site to Rockville's Town Center, it is anticipated that there will be significant pedestrian traffic accessing the site. Staff will work with the Applicant through the USE Permit process to ensure adequate sidewalk widths. In addition, Renaissance Street is proposed to serve primarily as a pedestrian street.

In order to encourage and accommodate bicycle commuters to the site, the Applicant shall provide bicycle lockers and racks to be installed at a convenient and safe location to serve the residential and retail uses.

D: Transit access: The site is serviced by the Rockville Metrorail station as well as a number of buses adjacent to the site. In order to further encourage the use of transit at the site, the Applicant will be required to contribute \$13,000 for the installation of a 2 bus shelters adjacent to the site. In addition, the Applicant will be required to contribute the City's Transportation Demand Management (TDM) program to fund various programs designed to reduce the number and impact of vehicular trips within the Rockville Pike Planning Area. This contribution will be incorporated into the TDM program funds of the City.

The following conditions of approval will be incorporated into a future USE Permit for the site:

1. The Applicant shall execute a Transportation Demand Management (TDM) agreement with the City of Rockville before the issuance of a building permit. This agreement will require the Applicant to make an annual contribution of ten (10) cents a square foot of gross floor area of the retail and office components for a period of ten years ($17,340 \text{ s.f.} \times \$0.10 = \$1,734/\text{year}$), and \$60. per unit for a period of ten years ($299 \text{ d.u.} \times \$60 = \$17,940/\text{year}$). These funds will be used for various programs designed to reduce the number and impact of vehicle trips within the planning area. The TDM agreement will specify the timing and other requirements of future payments of the TDM fee. This sum will be incorporated to the TDM program funds of the City.
2. The Applicant shall provide bicycle lockers or a bicycle room for the residential component of the project and bike racks/lockers for the retail component of the project at a safe and convenient location to serve the site as approved by the Department of Public Works.
3. The Applicant shall contribute, prior to issuance of building permits, a monetary contribution of \$13,000.00 for the implementation of two bus shelters to be located adjacent to the subject site. This contribution will be incorporated into the Bus Stop Beautification CIP.

CONDITIONS OF APPROVAL:

Based on our review, which took into account the needs of motorists, bicyclists, pedestrians and transit users, and in order to mitigate the potential transportation impacts, City Staff recommends the following conditions of approval for the subject development application, PDP1994-0001E:

1. Renaissance Street must be designed to accommodate through vehicular traffic.
2. Applicant shall enter into Town Center Maintenance District with the City of Rockville

3. Applicant shall provide safe access to the existing surface parking lot as approved by DPW
4. Applicant must provide 25 ROW truncations as approved by DPW
5. Applicant shall contribute \$135,000 towards transportation improvements in the Town Center Planning Area prior to the issuance of Building Permits
6. Applicant shall contribute \$94,249 toward pedestrian and bike improvements being constructed at the intersection of MD 28/Great Falls Road prior to the issuance of Building Permits
7. Applicant shall contribute \$80,000 towards traffic calming in the surrounding neighborhoods prior to the issuance of Building Permits
8. Applicant shall provide adequate parking and safe pedestrian access during all phases of construction
9. Applicant shall provide a ten-foot Public Utilities Easement along Maryland Avenue and E. Middle Lane
10. Applicant shall provide for a minimum of eight feet of clear pedestrian zone along all frontages of the site

cc: Eugene H. Cranor, Director of Public Works
Robert Spalding, Chief of Planning
Susan Straus, Chief Engineer/ Environment

COMPARISON OF PRELIMINARY DEVELOPMENT PLAN TO USE PERMIT

Development utilizing the optional method of development in the Town Center Mixed Use – 2 (TMC-2) zone is approved in a two-step process. The first step is the preliminary development (PDP) plan and the second step is a use permit. The PDP establishes overall development program at a concept-plan level. As with the recent PDP approvals for the Town Square and KSI projects the applicant has submitted an illustrative plan that shows the architectural approach planned by the applicant. The illustrative plan is for informational purposes and does not get approved as part of a PDP.

PDP SUBMISSION REQUIREMENTS

The application requires submittal of the following items:

1. A written description of the plan of development clearly stating how the project will achieve the intent of the Town Center Article of the Zoning Ordinance and adopted Master Plan.
2. A concept plan (11 copies) at 100' scale, or larger, supporting the above statement and showing:
 - A. "The general location and approximate height, size and uses of all proposed buildings.
 - B. A vehicular and pedestrian circulation system including public and private streets, walkways, bikeways, and parking areas (on and off site).
 - C. A system of public and private opens spaces, buffers and recreational areas with estimation of acreage to be dedicated to the public or retained in private ownership.
 - D. Topography showing contour intervals at 5', existing buildings, wooded areas, water courses and 100 year flood area.
 - E. Existing features adjacent to the project boundary.
3. A statement indicating how maintenance and ownership of any common facilities will be resolved.
4. A preliminary schedule of development including the time specific staging and phasing of:
 - A. Residential areas
 - B. Nonresidential development
 - C. The construction of streets, utilities and other improvements necessary to serve the project area (on and off site).
 - D. The dedication of land to public use.
 - E. The dedication and construction of public and private vehicle and pedestrian ways.
5. The submission of a Traffic Impact Study in conformance with the Standard Traffic Methodology for all uses that generate more than 100 vehicle trips during the peak hours as defined therein.
6. A Forest Stand Delineation and preliminary Forest Conservation Plan prepared in accordance with Rockville's Forest and Tree Preservation Ordinance.

ATTACHMENT "F"

USE PERMIT SUBMITTAL REQUIREMENTS

The use permit is the detailed site plan with the following submission requirements:

1. A detailed site development plan prepared and certified by a professional engineer, land surveyor, architect, or other qualified person approved by the Chief of Planning indicating:
 - A. Location and dimensions of all existing and proposed buildings and setbacks.
 - B. Existing and proposed topography.
 - C. Location and dimensions of all driveways, parking spaces, loading areas, and maneuvering areas as specified by Article IX, Division 2 of the Zoning and Planning Ordinance.
 - D. Tabulations of required and provided parking spaces as specified for each use in accordance with Section 25-395 of the Zoning and Planning Ordinance.
 - E. Specification for pavement of parking areas.
 - F. Location of all existing and proposed walls, fences, planting areas, curbs, sidewalks (public and private), crosswalks, trash enclosures and freestanding signs (if any).
 - G. Location of all existing and proposed public utilities and service connections.
 - H. Sequence and schedule of improvements of multiple building developments if they are not intended to be implemented at one time.
 - I. Vicinity Map, north arrow, date, and scale.
2. An approved NRI/FSD "Forest Stand Delineation" and preliminary "Forest Conservation Plan" (when applicable) prepared in accordance with the Rockville Forest and Tree Preservation Ordinance.
3. If the application is to be reviewed by the Planning Commission, one 8½" x 11" copy of the site plan and landscape plan (if required) must also be provided.
4. Preliminary building elevations and floor plans indicating:
 - A. Number of stories and building height.
 - B. Location and floor area of each type of use.
 - C. Location of entrance and loading positions.
 - D. Location and maximum area of all signs in accordance with Sign Requirements.
 - E. Method of screening mechanical equipment.
5. A Traffic Impact Study in conformance with the Standard Traffic Methodology.
6. A Landscape Plan showing placement, number, type, and size of all plantings.
7. The following information, as may be required by the Planning Commission, will be provided upon request.
 - A. Submission, for approval by the Planning Commission of a Final Record Plat Application for the subject property.
 - B. Submission, for approval of the Department of Public Works, of a storm drainage study based on the proposed development showing drainage accommodation prepared by a registered surveyor or engineer.
 - C. Submission of a plan for sediment control, and storm water management for approval by the Department of Public Works.
 - D. Submission of engineering drawings for all work in the public right-of-way for approval by the Department of Public Works and posting of bonds to assure installation and/or construction.
8. A statement describing how this application will address Rockville's Guidelines for Art in Private Development.